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AMERICAN TRADITIONS CONCERNING PROPERTY AND LIBERTY*

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When, over a century and a half ago, a poet saw a group of his countrymen about to set sail on their way to a new home in Georgia, he took a gloomy view of their prospects. He believed that they were leaving a land of scattered hamlets, sheltered cots, and cultivated farms, where ease, health, and plenty had prevailed, for a "dreary scene" around the "wild Altama"—a region of blazing suns, wild tornadoes, poisonous fields, and matted woods where lurked the "dark scorpion . . . vengeful snake . . . crouching tigers . . . and savage men more murderous still than they." Posterity has liked best the poet's fond memories of his native village. Goldsmith, however, considered the practical politico-economic aspect of his poem to be its best feature. He had indeed paid some attention to actual economic changes that were causing a depopulation of the English countryside. His compatriots, he believed, were crossing "half the convex world," not because they were dissatisfied with a land where simple pleasures and "light labour . . . gave what life required but gave no more," but because such a manner of living was no longer possible in Britain: "trade's unfeeling train" had "usurped the land" and made it a place where the "man of wealth" extorted pleasures "from his fellow-creature's woe" and took up "a space that many poor supplied." So he insisted, in his dedication to Sir Joshua Reynolds, that he was not writing of events to be found only in a "poet's imagination." "I here attempt to display," he declared, "real miseries" observed "in my country excursions for these four or five years past;" and "I expect the shout of modern politicians against me." He was considering a theme familiar in his time and not yet disposed of: "What constitutes a nation's prosperity?"

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Most of those who came to settle in America left a nation whose increasing prosperity, from an expanding trade and industry, they were not sharing with satisfaction to themselves. They sought to find here not only freedom to pursue their own ways in religion and government, but also greater economic freedom. Some of the settlers, it is true, had been substantial proprietors in the mother country, and in America they continued to obtain wealth or a livelihood chiefly from the labors of people without property—slaves and indentured servants. Most of them, however, had been small owners in England and expected to obtain greater security of ownership here. As a French visitor said of the colonists, "the rich stay in Europe, it is only the middling and the poor that emigrate."[1] Such men gained a living here by their own labors with tools and materials they owned.

I

Where a society permits an individual to own property, it usually allows him to increase his property, and some individuals accumulate more than others. By the late eighteenth century, there was in America a substantial and influential minority of richer owners, even outside the regions of large landed estates. In the Middle and New England colonies, there were wealthy manufacturers, ship-owners, bankers, and merchants. It was particularly these latter groups, as American historians have made plain, that were dissatisfied with governmental policies under our first central government. For well understood reasons, these men disliked the monetary, commercial, and fiscal policies of the state governments controlled generally by the smaller owners. They took effective leadership in assembling the convention of 1787 and in having incorporated in the new constitution the provisions limiting the powers of the states over trade and finance, and endowing the federal government with broad powers to tax, control money, and regulate all commerce crossing state lines. Under Alexander Hamilton's vigorous and able leadership, the new central government began at once an effective exercise of its greatly enlarged powers. It funded the entire national debt at its full face value, despite the fact that most of the bonds were held by persons who had purchased them for considerably less than their face value. It assumed,

[1] J. Hector St. John Crèvecoeur, *Letters from an American Farmer* (1904), pp. 75–76.

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at full face value, the revolutionary debts of the states. It passed a tariff, which included some protective rates. It set up, against a vigorous opposition led by Jefferson, a central bank in which the federal government was made owner of one-fifth of the stock, and which was empowered to conduct a general commercial banking business, issue notes made legal tender for all payments due the United States, and act as fiscal agent for the government. In approving this last-mentioned measure, President Washington took a course widely condemned by timid souls today; he disregarded reasonable doubts as to its constitutionality expressed by high legal authority—his attorney-general—and signed the measure he judged necessary and expedient.

There was no attempt at that time to conceal the main objectives of the movement for the new constitution and for the first legislation adopted under it. "The mass of the Federalists," said Fisher Ames of Massachusetts in 1805, "are the owners of the commercial and monied wealth of the nation."[2] Said Daniel Webster forty years later: "We may look at the debates in all the state conventions, and the expositions of all the greatest men in the country, . . . and we shall find it everywhere held up as the main reason for the adoption of the Constitution, that it would give the general government the power to regulate commerce and trade."[3] Alexander Hamilton chose an honest title ("Report on Manufactures") for the document in which he set forth the advantages of large-scale industries and trades and the reasons why these needed active promotion by the intervention of a centralized government. During most of our history we have adhered to the Hamiltonian policy. Our federal government has generally rendered whatever aid our expanding industrial and commercial capitalism has seriously needed—in the way of protective tariffs; land grants to railways; aids to the development of foreign markets and protection of foreign investments; creation of favorable credit conditions; and intervention of federal courts, in behalf of large employers, in labor disputes that can be related to interstate commerce. This favorable governmental policy, in conjunction with our rich natural resources and the enterprise of our energetic business men, has been successful, in a real and important sense. Our industrial and commercial wealth has increased generally at a rate greater than the rate of our increase in population.

[2] *Works* (Boston, 1809), pp. 425–426. [3] *Works* (Boston, 1851), Vol. II, p. 174.

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Since the beginning of our national history we have had theoretical and practical defense of this politically sanctioned and aided system of private industry and trade. The theories generally begin with doctrines as to the nature of man and proceed to doctrines as to the essential function and structure of government. "Every man," said Hamilton (quoting and endorsing David Hume), "ought to be supposed . . . to have no other end, in all his actions, but *private interest.* By this interest we must govern him; and, by means of it, *make him cöoperate to the public good,* notwithstanding his insatiable avarice and ambition. . . . The safest reliance of every government is on men's interests. This is a principle of human nature, on which all political speculation, to be just, must be founded."[4] John Adams, Fisher Ames, and Chancellor James Kent expressed substantially similar ideas. Today, ex-President Hoover maintains that "instincts and impulses of self-preservation, acquisitiveness, curiosity, rivalry, ambition for self-expression, for adulation, for power" supply the most effective stimulants to man's most useful endeavors; and the struggles for security and superiority which these instincts and impulses engender supply "the sifting test of competition" from which alone we can recruit successful social and political leaders.[5]

We know that Hamilton, Adams, Ames, and Kent held a poor opinion of the average man's competence, of a constitutional system that gave him an equal voice in government, and of a political policy that sought to give him an equally secure place in the economic order. Hamilton always made it plain that he was "not much attracted to the majesty of the multitude." Adams declared that "democracy never had been and never can be so desirable as aristocracy or monarchy." If you give to representatives of the majority "the command or preponderance in the sovereignty, that is, the legislature, they will vote property out of the hands of you aristocrats."[6] When, a few decades later, the states were repealing restrictions on suffrage, Chancellor Kent observed: "My opinion is that the admission of universal suffrage and a licentious press are incompatible with government and security to property, and that the government and character of this country are going to ruin."[7] Today, Mr. Hoover more mildly recalls our attention to the

[4] *Works* (New York, 1851), Vol. II, pp. 51, 298.
[5] *Challenge to Liberty* (1934), p. 30.
[6] *Works* (1851), Vol. IV and Vol. VI, p. 516.
[7] William Kent, *Memoirs and Letters of James Kent* (Boston, 1898), p. 218.

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"hard commonplace truth" that "no economic equality can survive the working of biological inequality."

The older writers were frank in expressing the view that the chief end of government is to protect private property, and that accordingly power over government should be apportioned generally according to the value of one's property. Said John Adams: "The moment the idea is admitted into society, that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyrrany commence."[8] Joseph Choate said many years later that he had supposed that "all educated, civilized men believed" that "the preservation of the rights of private property . . . was the very keystone of the arch upon which all civilized government rests."[9] "The power which holds the purse-strings absolutely must rule," said Hamilton. Adams declared the principle that "power always follows property" to be an "infallible . . . maxim in politics."[10] Webster praised James Harrington for having recognized that property is "the true basis and measure of power; . . . political power naturally and necessarily goes into the hands which hold the property."[11]

Thus these earlier writers recognized the need for a close working alliance between property and government—a strong and centralized government, willing and able to restrain any individual whose free action interfered with the advance of the nation's trade and industry, and also ready to come to the help of any trade or industry that needed public support. They talked in terms of social utility and power, not of individual liberty and justice. Whatever we may think generally of the older Hamiltonians, we must concede them an honorable distinction: they did not claim to be Jeffersonians.

The present-day spokesmen for the rights of private industry and trade do make that claim. They are upholding principally, they say, not a particular distribution of wealth and economic power, but a traditional system of liberty. "We have to determine now," Mr. Hoover says, "whether, under the pressures of the hour, we must cripple or abandon the heritage of liberty for some new philosophy which must mark the passing of freedom."[12] Many

[8] *Works*, Vol. VI, p. 9.
[9] Pollock v. Farmer' Loan and Trust Co., 157 U. S. 429 (1895), at p. 534.
[10] *Works*, Vol. IX, p. 376.
[11] *Works*, Vol. III, pp. 14–15.
[12] *Challenge to Liberty*, pp. 1–2.

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others today are talking in similar terms. It seems clear, however, that their real interest is in a very special sort of liberty. It is true that they are emphatic, though brief, in expressing general respect for an American tradition of religious and intellectual liberty—the freedom of each man, individually or in association with fellows, to worship, hold and express opinions, challenge injustice and oppression, according to the dictates of his own conscience and reason. When they talk more concretely and specifically, however, it is usually about some threat to economic liberty. They set forth in concrete detail their objections to the policies today which they regard as tending toward the destruction of that sort of liberty. They name specifically the acts of the federal government in manipulating the currency, fixing prices, limiting crop production, regulating the sale of securities, centralizing control over banking, drastically limiting utility and holding companies, and competing with private enterprise in the supply of electric power. Thus they leave no doubt as to the actual governmental interferences with economic liberty that disturb them. They appear to be less sensitive to the immediate dangers to any other sorts of liberty. I have carefully read the recent books by such men as Mr. Hoover, Mr. Ogden Mills, and Mr. Jouett Shouse, and the pamphlets of such organizations as the American Liberty League; and I do not find a single complaint against any of the familiar interferences, by public authorities or by armed private bodies, with free assembly and protest, or against the still more notorious proposals recently put forth for further drastic interference with freedom of discussion and teaching in our schools and colleges.

The critics explain their preoccupation with economic liberty by arguing that moral and intellectual liberty is dependent upon economic freedom, and imply that if you respect the latter, the former is in no danger. "Human rights and property rights are inseparable," declares the American Liberty League. "The denial of property rights," the League's statement continues, "has always been the prelude to a denial of human rights. . . . Confiscation of old was the prelude to the guillotine." "Other freedoms cannot be maintained," declares Mr. Hoover, "if economic freedom be impaired. The most insidious mastery of men's minds and lives is through economic domination." It is no criticism of this doctrine to say that Karl Marx and his numerous disciples set forth an es-

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sentially similar doctrine. And there should be no complaint that these exponents of Marx's philosophy of history are talking exclusively of the evils of our present-day economic policy. We should not demand that every publicist cover the whole field of public affairs. Each has the right to concentrate his attention on some particular social problem that he considers to be peculiarly pressing for solution. If Mr. Hoover and Mr. Shouse believe that our most immediate dangers come from the present-day threats to a certain sort of economic freedom, there is no reason why they should not say so. My complaint is that they do not say so explicitly and emphatically enough. I believe Mr. Hoover would have made his intentions clearer if he had named his book "Challenge to an Economic Liberty" instead of "Challenge to Liberty." Furthermore, despite the sweeping statements by these publicists on the threats to liberty that inhere in too much governmental activity, their own programs, we shall see, generally allow an extensive and varied scope for regulation and aid.

Where can we find the key to the discrimination between the types of governmental regulation and aid which these men accept as not incompatible with the liberty they prize, or indeed approve as essential to its preservation, and the regulation and aid they condemn as regimentation and as tending to the annihilation of liberty? I think this key may be found in the sort of economic order and the sort of distribution of wealth that they are interested in preserving. They are defending a system of large-scale private industry and trade, and its concentration of income and control. Much has often been ably said in behalf of the system they approve, tending to show that wherever the system has been in operation the masses of men have had shorter working hours, better homes, clothes, and food, greater security against preventable bodily ills, and wider opportunities for culture and pleasure than the masses have ever enjoyed under any other economic system. A relevant complaint again is that the writers and organizations are not more explicit in announcing their aim. Surely a better name for the American Liberty League would be "American League to Preserve Large-Scale Capitalism in Private Hands." Are there reasons to be ashamed of such a title, apart from its cumbersome form? The League has been criticized on the ground of the great wealth and the large corporate connections of the members

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of its executive committee. The criticism is unjust. It would be complete chicanery for the League to announce any other sort of sponsors for its program.

II

Despite the general success of large-scale industry, from the standpoint of its productivity, we have always had expressions of doubt as to its net human values. At all periods of our history, notable Americans have condemned its moral standards, or disparaged its cultural implications and consequences, or even questioned its general efficiency. The counts in the moral indictment are familiar. We need not stop to recall the complaints made by such men as Theodore Roosevelt, Henry Cabot Lodge, the numerous "muck-raking" journalists of the nineteen-hundreds, and others disturbed by "corrupt wealth" and "the gigantic modern plutocracy and its lawless ways" (to use Mr. Lodge's terms). These complaints have been in part over the financial pressures that business men bring to bear on public agencies, in efforts, often successful, to secure a particularly favorable treatment of special business interests; in part, over the private methods of business-men in crushing out competition. Mr. Hoover agrees that useful profit-making motives tend to become hypertrophied into what he calls "economic greed," "enviousness," "malice," "over-pugnacity," and "will to destruction," which often require governmental restraint.

Many have maintained that a large-scale industrial system tends to be inhumane, even in its honest, normal, and necessary processes. When Theodore Roosevelt said that "very wealthy people . . . are singularly callous to the needs, sufferings, and feelings of the great mass of the people,"[13] he did not mean that rich men remained adamant in the face of actual misery or that they were generally unwilling to contribute generously to charity. He meant, rather, that they were too blindly tolerant of normal business methods which often, in this very rich country, left many competent and industrious people in need of charity, or at least in positions of great economic insecurity. This moral indictment of modern industrialism has been voiced by distinguished Americans from the very beginnings of our national life. Benjamin Franklin, Richard Henry Lee, John Taylor of Caroline, Theodore Parker, and Horace Greeley in earlier times, and socialists, "progressives," "liberals," and others too numerous to name in later times, have

[13] *Works* (Memorial edition, New York, 1926), Vol. XXIV, p. 82.

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expressed dismay over the effects of an industrial civilization on the lives of great masses of workers, receiving such scanty portions of the abundant comforts and luxuries which their labors have played so important a part in producing.

Another familiar indictment of the dominant American economic tradition is the charge that there has been something essentially inelegant, shoddy, ignoble about it. Inevitably, it is said, our strenuously competitive pursuit of industrial wealth has made us more concerned with material than with aesthetic and cultural values. "This invasion of Nature by Trade," said Emerson, ". . . threatens to upset the balance of man."[14] Another New Englander, Charles Francis Adams, said that he regarded successful money-getting in business as generally unassociated "with the finer and more interesting traits of character."[15] Many of our poets and novelists have expressed grief over the "thin and vulgar life" we lead because we sacrifice beauty, refinement, and content to mass production. The great Georgia poet, like Goldsmith, wrote poems "with a purpose." He painted the natural Georgia scenes, which he knew, in lines exactly opposite to those of the Irish poet's dreary picture; in the land which Goldsmith thought cursed with matted forests, tornadoes, tigers, bats, and savage men, Lanier found "gentle leafage," a "riotous noon-day sun," "tissues of moonlight shot with songs of fire," "scented South-winds," "languid doves," and mocking birds that "summ'd the woods in song." Yet he voiced the same laments over the desecration of a quiet and steadfast rural life by fickle trade. The farmer who had contentedly raised crops whose worth he knew because they had sustained him in the place where he was born had been tempted to stake "his life on games of Buy-and-Sell," and so, lured on with "small loans by pledges great renewed," he became a "gamester's catspaw and a banker's slave," until "sick with deep unrest, he fled away into the oblivious West." "O Trade! O Trade! would thou wert dead!"[16]

Lanier was concerned as much with the economic as with the aesthetic consequences of the march of trade. Other Americans, thoroughly practical-minded, have shared his doubts about the efficiency of our industrial trade and economy. They are not satisfied by a comparison of our average living standards with standards

[14] *Journals* (Boston, 1911), Vol. V, p. 285.
[15] *Autobiography* (Cambridge, 1916), p. 190.
[16] See especially the poems "Corn" and "The Symphony."

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in other times and countries. They believe that the efficiency of our methods should be tested rather by a comparison of our realized with our probably realizable standards. They do not believe that imperious economic and biological laws require us to have such frequent periods of unemployment and such constant poverty and insecurity for so large a number of our citizens. They believe that a better administration of our economic affairs could secure not only an equal or larger production but also a better distribution, so that we should not have vast numbers of competent people living so near a mean subsistence level in a country as rich as ours. They hold that very rich men may ordinarily administer affairs efficiently for themselves and for one another and yet inefficiently for the rest of the community. Big business-men, they say, may be skillful and economical in the pursuit of quick profits but reckless and wasteful in their long-run policies, as these policies affect the general welfare. They note that our latest and greatest depression came after eight and a half years of uninterrupted direction of our economic policy by master-minds of business, both in private life and in the strategic positions of our national government—the offices of president, secretary of the treasury, and secretary of commerce. It was an earlier President Roosevelt who remarked that "business-men, with a few exceptions, are worse when they come to deal with politics than men of any other class."[17]

III

What remedies have Americans proposed to cure the physical, moral, and cultural ills of a mass production managed by a small minority of the producers? Some have believed that escape from the inequality, instability, and drabness of mass production comes only by a subordination of industry and trade to agriculture as the main way of life. Certain of the founders of our nation had adopted in part the doctrine of the French economists who held that real increase in the wealth of a nation comes only by additions to its raw materials, which in turn come only through the labors that extract these materials from the earth. Jefferson, Franklin, and Paine believed that this doctrine supplied the safest guide for a just and efficient economic policy. Jefferson believed also that the preservation of worth-while cultural and moral values was de-

[17] *Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge* (2 vols., New York, 1925), Vol. I, p. 542.

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pendent upon keeping the majority of people close to the soil; and many later Americans have followed him in that. "Those who labor in the earth," said Jefferson, "are the chosen people of God, if ever he had a chosen people. . . . Corruption of morals in the mass of cultivators is a phenomenon of which no age nor nation has furnished an example." "Let our workshops remain in Europe;" we had better import their products than their "manners and principles."[18] Forty years after the adoption of the Constitution, Calhoun declared his determination to do all he could to "turn back the government to where it commenced its operation;" and he made it clear that he meant a return to a governmental policy supporting a predominantly agricultural economy.[19] "I should not be pained," said Emerson, "at a change which threatened a loss of some of the luxuries or conveniences of society, if it proceeded from a preference of the agricultural life, out of the belief that our primary duties as men could be better discharged in that calling."[20]

We have had several widely divergent conceptions of a desirable agrarian society. Jefferson looked forward to the disappearance of a plantation economy resting on slave labor and on a concentration of landed property in the hands of a privileged minority. The object of other agrarians has been to preserve or restore an aristocratic agrarianism. According to Calhoun's conception, not only was slavery justified by the natural needs of both master and slave, but there was even among freemen such ineradicable differences in intellect and character that property inevitably concentrated into the hands of a few, and an unequal allotment of political power followed rightly the unequal distribution of wealth. Other mid-nineteenth-century Southerners attacked Northern industrialism by arguing that since, by inescapable laws of human nature, every fine civilization rests on an exploitation of the incompetent by the competent, that economic order is best in which the exploitation is tempered by the humane restraints to which every strong man of normal sympathies submits himself when his working life is closely associated, in place and function, with that of his dependents; and that this intimate relation between owner and worker (slave or employee) can be maintained only in an agrarian economy.

[18] *Writings* (Ford ed., New York, 1894), Vol. III, pp. 268–269.
[19] *Works* (Charleston, S. C., 1851), Vol. III, p. 399.
[20] *Complete Works* (Riverside ed., Cambridge, 1883), Vol. I, pp. 224–225.

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Something of this conception of an agrarian life reappears today in the recent pictures of the old South painted by the talented authors of *I'll Take My Stand.*[21] Advertise Northern communities, one of the authors urges, as horrible examples of industrial slavery. Represent industrialism as "a foreign invasion of Southern soil, which is capable of doing more damage than was wrought when Sherman marched to the sea." Proclaim that "the carpet-baggers are again in our midst." These Southerners are not exclusively sectional in their appeals; for they suggest a pooling of forces with Western agrarians in a struggle to "make the world safe for farmers." They also signify a willingness to admit a moderate amount of industrialism. Their concrete proposals for avoiding too much of it are few. Reserve higher general education, they suggest, for the intellectually elite, selected in the secondary schools; confine the rest of the youth to training in agriculture and the smaller crafts and trades. Let farmers make many of their necessities, reduce their luxuries, combine with their neighbors in careful buying, and thereby put a crimp in the expanding markets for highly exploited but intrinsically valueless "comforts" and "benefits." "Throw away the radio, and take down the old fiddle from the shelf."

Still other Americans have believed that it is impossible to make any sort of competitive system, agrarian or industrial, operate fairly and humanely. For they believe that the whole system of competition—in the sense of bargaining only for your own gain, even though in many cases your gain may be measured by the other party's loss—is opposed to man's essential nature. Human nature, they maintain, expresses itself in benevolent ways, in economic as in other dealings, except in so far as conventional social institutions require other sorts of expression. Man in his normal aim is coöperative and generous, not competitive and exploitative. These Americans, holding to a belief in equality, have meant not an equality existing only in some vaguely remote past (usually described as "equality of opportunity at the beginning of the race"), but an equality in the chances existing at all stages of the race, particularly in the living present. This sort of doctrine was set forth a century ago by such Americans as William Leggett, George Ripley, Albert Brisbane, Theodore Parker, Bronson Alcott, and

[21] *I'll Take My Stand: The South and the Agrarian Tradition.* By Twelve Southerners (New York, 1930).

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William Ellery Channing; and later in novels by such men as William Dean Howells, Winston Churchill, and Robert Herrick.

On the basis of this conception of the incompatibility between competitive economics and benevolent human nature, many respectable Americans have elaborated plans for a coöperative economic life. Alcott, Ripley, Brisbane, and others sought to set up small voluntary communities, and thus teach by example the practicability and desirability of communism. Greeley accepted their ideas, for a time. Later writers have believed that a coöperative economic society can be reached only in a large-scale collectivism, achieved by governmental action of some sort. Henry Demarest Lloyd, Vera Scudder, Graham Taylor, W. D. P. Bliss, and other "Christian Socialists" have advocated a governmental socialization applied principally to natural monopolies. Others have urged that we should—quickly or slowly, peacefully or forcibly—abolish the whole competitive system. Here, European doctrines have had significant influences on American socialism. Nevertheless, leadership in the formulation of a socialist program for America has continued chiefly in the hands of thoroughgoing Americans. Such men as Alcott, Brisbane, and Wendell Phillips in earlier days, and Algernon Lee, Eugene Debs, and Norman Thomas more recently, are, by birth and rearing, as qualified as any one else to devise American remedies, good or bad, for the ills of American society.

For the most part, however, we have believed that relief from the major practical and spiritual disadvantages of large-scale private industry can best be obtained, not by abolishing the system, but by regulating and aiding it. We welcome an expanding industrialism, under more or less of private initiative, with all its narrow concentration of ownership and power, because of its greater productive efficiency; but we want to compel it to be honest and humane, and not too palpably inefficient in the distribution of its vast product. This is the familiar attitude of our "liberalism"—exemplified notably a short while ago in the programs of Roosevelt and LaFollette "Progressiveness," and today in the plans of Roosevelt "New Dealers" and "Progressive Republicans." Reformers like these have taken the lead in putting through our vast and varied "social legislation." "Conservatives" also come around in time to allow an extensive scope for governmental restraint and assistance. Today, Mr. Hoover declares that "abuses in the economic field . . . have been our most serious problem for the past

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two generations." "The march of science and invention," he says further, "is constantly toward larger economic instruments," which, "with all their blessings . . . offer new methods and new opportunities for wickedness and economic oppression." Accordingly, it is no violation of sound American traditions for government to intervene forcibly in order to restrain "unfair competition," "betrayal of trust," "financial manipulation of business agencies, vicious speculation in their capital stocks, exploitation of the investor," and "use of property to oppress others."[22]

Mr. Hoover and other present-day conservatives (e.g., Mr. J. P. Warburg and Mr. Ogden Mills) set forth the specific sorts of governmental aid and regulation they accept.[23] The approved measures make a formidable list. They include the familiar restraints and compulsions designed to promote public health, maintain decent living and working conditions for wage-earners, prevent monopoly and unfair competition, check careless methods in the businesses of banking and insurance, and secure fair rates and adequate services from the railroads and other public utilities. Conservatives also approve positive activity by government in conserving natural resources, reclaiming waste lands, and constructing public works to aid navigation, irrigation, and flood control. They endorse the older governmental favors to big business, through tariffs, subsidies, etc., and the newer services, through loans to banks, railways, and other large private enterprises; and they sanction the recent aid to small business through the loans to farmers and householders. They generally approve, at least for periods of "emergency," moderate public works for the relief of unemployment, assistance for the low-income groups through old-age pensions and unemployment insurance; and special measures to lighten the burdens of the heavily mortgaged small home-owner, farmer, and shopkeeper.

Thus both liberals and conservatives approve wide and varied governmental intervention; the latter condemning it, it is true, when the former propose it, but endorsing it, after it has become a fixed part of the status quo, as so beneficial in its effects that no more of it is needed. Our history for the last half-century shows that each important governmental intervention we have adopted

[22] *Challenge to Liberty*, Ch. 9.

[23] James P. Warburg, *It's Up to Us* (New York, 1934); Ogden L. Mills, *What of Tomorrow?* (New York, 1935).

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has been called socialistic or communistic by contemporary conservatives, and has later been approved by equally conservative men who now accept it both for its proved benefits and for the worthy traditions it has come to represent. Both liberal and conservative supporters of our large-scale business under private ownership advocate or concede the amounts and kinds of governmental limitation and aid which they regard as necessary to make the system work efficiently and humanely. Sooner or later, they are willing to have government intervene for the purpose of preventing the system from being too oppressive to the masses of the people, protecting it from its self-destructive errors, and coming to its help in other ways when it appears not to be able to take care of itself.

Most liberals and conservatives believe the system to be supremely worth saving. They defend it on the grounds of the indispensable moral, cultural, and practical benefits that flow from private property. Private ownership, it is said, calls out the ordinary individual's best productive efforts, offers freest play to his creative capacities, makes him generally self-reliant, gives him a sense of security and freedom.

IV

Many of the arguments for private property have no validity except in reference to a situation in which the ordinary individual owns the property upon which he labors for his livelihood. But certainly most Americans now own no property of that sort. Accordingly there are many who now contend that we can escape the major disadvantages of our present order only by a restoration of private property. This would mean returning to an old American tradition. Most of the colonists settled here as owners of the properties on which they produced commodities for consumption or sale. When we adopted our Constitution, an overwhelming majority of the citizens were still property-owners. That condition continued for awhile. There are reliable estimates tending to show that as late as a hundred years ago some eighty per cent of the enterprisers in the United States were small farmers, traders, mechanics, and craftsmen, all owning the means of their livelihood.

From time to time we took steps to facilitate by law a wide diffusion of ownership. Colonial legislation established free aliena-

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tion and provided simple forms of conveyance. The Ordinance of 1787 provided for equal division of estates among the children of deceased persons. Legislation by early state governments rescinded the quit rents formerly payable to proprietary families, removed other burdens from land-owners, confiscated some of the large Tory estates and sold them in small lots at low prices, and abolished the system of entails and primogeniture. Congress began in the early nineteenth century to encourage settlement of the public lands by small owners, through a policy of low prices and conveniently accessible land offices.

When in the third quarter of the century the farmers believed that their chances to continue as free property-owners were threatened by monopoly prices for their necessities and oppressive interest rates on their loans, they entered actively into politics, demanding strong national and state action to control railway rates and services, break up monopolies, and provide a cheap currency regulated as to its amount by public rather than by private agencies. Government, national and local, had for a long time offered special aid and protection to large owners in industry and commerce; it was now called upon to concern itself equally with the interests of farm owners.

We have referred above to various theories setting forth the advantages, respectively, of a system of large-scale industry under private ownership, of an aristocratic agrarian economy, and of collective ownership in varying forms and degrees. We have also had arguments in defense of a genuine system of private property. In the minds of many social philosophers among the seventeenth-century colonists, belief in individual ownership was associated with the general belief in political equality and individual liberty. Much of the later eighteenth-century opposition to the development of industrialism was associated with a fear that manufacture and trade spelled the end of both individual ownership and political liberty. So Franklin and Samuel Adams felt. Locke's theory, said Adams, that protection of property is a primary end of legitimate government, "necessarily supposes and requires that the people should have property."[24] Thomas Paine, celebrated as an extreme opponent of governmental intervention, recommended governmental action to break up land monopoly and check excessive

[24] *Writings* (New York, 1906), Vol. II, p. 299.

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accumulation of personal property in the hands of a few.[25] One of the chief grounds for John Taylor's opposition to the Hamiltonian policies was his belief that they tended to aid the creation of monopoly. Emerson explained that his chief reason for preferring agriculture to industry was that in the former one was less likely to find a small and idle owning group living from the labors of a large non-owning group. Horace Greeley, who was the most influential among those promoting a federal land policy favorable to small owners, and who introduced the first homestead bill in Congress, said: "The right of owning property, or of owning land, is one thing; the right to own thousands, and even millions, of acres of land is another."[26] Greeley was equally concerned over the effects of the prevailing economic policies in dispossessing industrial and commercial workers; and loss of proprietorship by these latter groups has become increasingly the concern of social reformers.

There is no doubt that the percentage of independent owners in our total population has been decreasing for a considerable while and that the decrease has proceeded at a considerably accelerated pace in the last quarter-century. During this latter period, the number of independent producers in manufacturing, mining, and construction has decreased, not only proportionately but absolutely; and the tendency among storekeepers is in the same direction, the independent merchant becoming a salaried employee of a chain-store company. The proportion of owners in the whole number of those engaged in industry, commerce, and trade is now less than one in four. The recent tendency has also been away from farm ownership. Owners now constitute only slightly over one-half the total of those engaged in farming. In the eight Southern states of Mississippi, Georgia, South Carolina, Alabama, Arkansas, Texas, Oklahoma, and North Carolina, sixty per cent or more of the farmers are tilling land owned by others. The general tendency appears to be toward a transformation of farm-owners into propertyless tenants.[27] It is no answer to all this to cite the in-

[25] *Works* (New York, 1895), Vol. III, pp. 338, 340.

[26] Quoted in an article by W. L. McKenzie, in *New York Tribune*, April 24, 1849.

[27] For figures, see United States Department of Commerce, *Statistical Abstract of the United States*, 1933; United States Department of Agriculture, *Yearbook of Agriculture*. See also Robert R. Doane, *The Measurement of Wealth* (1933); Lewis Corey, *The Crisis of the Middle Class* (1935).

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crease in the number of stockholders among the salaried and wage-earning groups; for it is doubtful whether the pace of increase here is as great as the pace of the decrease in the number of independent owners. Moreover, whatever diversification in ownership we have is more than offset by concentration in management and control; and even where the nominal numbers of independent units is maintained, there is an increase in the proportion of control exercised by the larger units.

We find today expressions of deep concern over this disappearance of private property, and urgent recommendations that we do something about it. Socialists, and others called "radical," often direct our attention to this significant phase of our recent development; but they are not the only ones. I have statements to quote from three men who at least are not socialists. The first is by a conservative British writer, Mr. Gilbert Chesterton; the second, by Senator William E. Borah; the third, by Mr. Ogden Mills.

Says Mr. Chesterton:

"Either Private Property is good for Man, or it is bad for Man. If it is bad, let us all immediately become honest and courageous Communists; and be glad to have joined the movement while the support of it still calls for some little courage and honesty. But if it is good for Man, it is good for Every Man. . . . There is a case for Capitalism; a case for Landlordism; . . . there are arguments for all the various processes by which property is placed in specially trustworthy hands, or administered from recognized centers, or made part of a smooth and stricter machinery of social life; there are arguments for Trusts . . . for big employers. But they are all arguments *against* Private Property. They are all more or less philosophical reasons why a man, as such, should not be an owner, as such; why the tenant should *not* own his house; why the workman should *not* own his workshop; why the farmer should *not* own his farm. All Capitalistic arguments are Communist arguments."[28]

Says Senator Borah:

"There can be no such thing as economic liberty or economic freedom where all the vast wealth and natural resources, and all that which contributes to the daily life of the individual, is under the control of a dozen or so, or even 2,000 or 2,500 people. It is impossible to contemplate the future of the American citizen with any conception of freedom upon his part or of economic liberty upon his part, under such conditions." It is accordingly "the duty of Congress . . . to exercise whatever power it has and whatever power it may command to the breaking down of that concentration of wealth."[29]

[28] *G. K.'s: A Miscellany of the First 500 Issues of G. K.'s Weekly* (1935), pp. 15–16.

[29] *Congressional Record*, June 11, 1935, pp. 9386–9387.

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Says Mr. Mills:

"The distribution of the ownership of property . . . is the all important question. . . . There are many millions . . . that have little or no property. . . . It is the size of this group that constitutes the challenge to our American civilization. Theirs is the problem we must solve in our march toward that ideal state contemplated by our fathers." Accordingly we must restore to this country a system in which "freedom will be combined with security through the distribution of the ownership of property among so large a proportion of the families of the country as to fix the character of society, making it neither Communist nor Fascist, but Proprietary. . . . There is an ideal, neither visionary nor unattainable, well worth the best thought and efforts of the nation. I would like to see it indelibly inscribed on our Republican banner."[30]

Mr. Chesterton was writing in support of the views of the British "Distributists," with whom we can deal no further here. Mr. Borah was speaking in the Senate, on June 11 of this year, in support of the death-sentence clause of the bill against utility companies and in explanation of his well-known anti-monopoly views. Mr. Mills was addressing the Women's Republican Club of Massachusetts, on May 8 of this year. He supplied no information as to how he would achieve his "Proprietary" Society—beyond inscribing it on the Republican banner.

Others go somewhat further and offer proposals for legislative changes. None of the proposals seems radical, although some seem utopian. Most of the plans are concerned with the preservation or restoration of independent farm ownership.[31] To protect present owners, measures are proposed to revise our tax and credit systems in favor of the farmer; to reduce the prices (by repealing protective tariffs, for example) of the articles he has to buy; to increase the prices of the commodities he sells (as by export bounties); and to persuade him to engage mainly in "agrarian" (raising for his own consumption) rather than "commercial" (raising crops for the market) farming, and thereby save him from the practices that are likely to take him into bankruptcy. To help tenants and share-croppers become farm owners, there are the proposals to compel further reduction of mortgage interest rates; to require landlords to deal more liberally with their tenants; and to pro-

[30] *New York Herald-Tribune*, May 9, 1935.

[31] See Troy J. Cauley, *Agrarianism; A Program for Farmers* (1935); Frank L. Owsley, "The Pillars of Agrarianism," *The American Review*, March, 1935; John Crowe Ransome, "Happy Farmer," *ibid.*, Vol. I (1933); John C. Rawe, "Agrarianism: the Basis for a Better Life," *ibid.*, December, 1935; Herbert Agar, *The Land of the Free* (1935).

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vide a system of government loans, at low rates, and with easy conditions of amortization, in order that tenants and croppers may purchase lands, dwellings, equipment, and livestock. To secure a wider distribution of ownership in the trades and industries, there are the familiar measures for a more drastic action against monopolies; for legislation requiring owners of large enterprises to set up schemes enabling employees to acquire shares in the assets and control of the enterprises; for special taxation of chain stores; for a tax on other corporations in general, graduated according to size of the corporation; and for heavily progressive income and inheritance taxation—to help break up large estates.

I am speaking chiefly as a recorder of ideas and aims, and claim no competence to appraise the probable practical effects of the proposed measures. I can see that if the farmer is induced to change his occupation very extensively from "commercial" to "agrarian" farming—that is, to live directly off the products of his farm, sell little to others, and purchase little from them—there may be a danger of a substantially lowered living standard for himself and others; and that measures proposed to secure a wider diffusion of industrial and trading ownership may fall far short of their objectives.

Are there any effective substitutes for the value of owning one's means of livelihood? If we must lose the zest and pride and independence that come from fashioning commodities from our own materials, with our own instruments, and according to our own designs, can we find other adequate means of self-expression in economic life? Some say that the substitute satisfaction can be found in a freedom to display our skill, judgment, and taste in selecting the things we buy to consume or to occupy our leisure. This sort of economic freedom, however, depends in considerable measure on how much we have to spend. Large-scale capitalism under the ownership and management of a small minority cannot continue to contribute much to the freedom of the ordinary individual unless it concedes him something above the bare necessities of life. Does it?

The Brookings Institution of Washington has recently published detailed analyses of the practical operation of recent governmental measures designed to remove some of the inequality, or to mitigate some of the effects of the inequality, in the distribution of property

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and income. Critics of the New Deal acclaim these reports as supplying a reliable factual basis for a devastating condemnation of the measures. The same institution has also published recently a report setting out in considerable detail the distribution of incomes in the United States in recent prosperous years. The report shows that in 1929, at prices then prevailing, a family income of $2,000 could be regarded as "sufficient to supply only basic necessities;" that in that same year sixteen million families, or practically sixty per cent of the total number of families in the United States, had incomes of less than that sum; and that more than twenty-one per cent of the total number of families had incomes less than half large enough to supply the basic necessities.[32] What, then, constituted our prosperity in those prosperous days?

I do not know by what piecemeal means a better distribution of our income or a better distribution of ownership can be achieved. Secretary Wallace admits that there are practical objections to a policy of crop restriction as a long-run policy. Even I can see dangers in Mr. Townsend's pensions, in Colonel Knox's promised bonuses and bounties, and in other such inflationary schemes. But I am not sure that a return to the practices of our pre-depression prosperity would be altogether safe and sane, from a practical standpoint. It is probably a problem, in part, for economists; that is, for economists who are informed and concerned as to real experiences of a majority of Americans in times of prosperity as well as in depression. Most of the economists whose utterances on the New Deal I have recently read or heard have been concerned more with the theoretical than with the practical aspects of the measures. The Brookings report is exceptional. It criticizes the New Deal for contributing to an artificial freezing of the price level at a higher point than methods of production warrant. It advocates generally a price program of reducing prices correspondingly with improved methods of production. The only hint it gives as to a method of attack is to list the factors which keep prices from dropping normally. It assumes that the sort of price drop it recommends is normal to a free competitive system, and states that among the factors that have kept prices up are monopolies, cartels, trade associations, and the recent codes. In general, the Brookings writers appear to expect that a lowered price level

[32] Maurice Leven, Harold G. Moulton, and Clark Warburton, *America's Capacity to Consume* (1934), Ch. 5.

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would mitigate some of the bad effects of the mal-distribution of income disclosed in their figures.[33] I do not know how reliable their analyses are, or how practicable their suggestions. The report seems to follow the right method of attack. If other economists have anything worth while to propose, let their proposals be concrete, set forth with specific estimates as to expected changes in prices and profits and in the incomes of all substantial groups of the people. Economists appealing to economic laws, or crusading against the Communist Manifesto, seem to me to be of not much more practical value, in the actual situation, than politicians and propagandist organizations eulogizing liberty and misrepresenting Jefferson.

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If we look back on our history, then, we find somewhat varying ideas and practices in respect to property. We have frequently given special favors to large-scale industry and trade in private hands, although we have not always acknowledged the policy when we have pursued it. We have often restrained large-scale private industry and trade in order to avoid some of its acknowledged consequences. Some among us, believing that many of the disadvantageous features are inseparable from large-scale private ownership, have advocated a partial or complete substitution of public for private ownership. From time to time, we have adopted some of these socialist proposals, and we seem likely to adopt others in the future.

Thus there are respectable American traditions for Capitalists, for Socialists, for Reformers, and, finally, for genuine Individualists—those who (following Jefferson) desire to see private property maintained along with guarantees for some sort of equality in the operation of the system. It has not been the object of this paper to exalt any one of our economic traditions over the others. The purpose has been rather to urge that before any of us ventures to charge others with abandoning traditional American ideas, we familiarize ourselves with the rich variety of our heritage; and, more particularly, to suggest that we read Jefferson somewhat extensively before proposing a restoration of his ideas of property and liberty.

[33] Leverett S. Lyon and Others, *The National Recovery Administration; an Analysis and an Appraisal* (Washington, 1935).

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In America in Jefferson's time there was a wide diffusion in the ownership of productive property. Accordingly, he opposed Hamilton's regulatory plans, which he believed tended toward the concentration of ownership and control in the hands of a small number of manufacturers, traders, and financiers. On the other hand, writing from a country where he observed this concentration of ownership already in existence, he said: "I am conscious that an equal division of property is impracticable. But the consequences of this enormous inequality producing so much misery to the bulk of mankind, Legislators cannot invent too many devices for subdividing property."[34] Whether legislators inventing devices for redistributing incomes rather than subdividing property would have pleased Jefferson, I do not know. It seems very clear, however, that we shall have many interferences with what Mr. Hoover, the Liberty Leaguers, and the Crusaders call liberty, if we are ever to restore generally the sort of liberty prized by Jefferson.

[34] *Writings*, Vol. VII, p. 35.

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THE FUTURE OF THE AMERICAN STATES

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In any consideration of the future of the states, it is desirable at the outset to recall the circumstances of their development and of their entry into the Union. When the present Constitution was framed and adopted, the states were more than a century and a half old. At that time, and for many years thereafter, it was the states to which the people gave their primary allegiance. Under the Articles of Confederation, the strength of the states was so great that the central government was unable to function; when the Constitution was framed, the people were still greatly concerned about "states' rights." This priority of the states in the federal system continued through the nineteenth century, down to the period of the Civil War; in the closing decades of that century, state government sank into the depths in an orgy of graft and corruption and inefficiency, which resulted in a wave of state constitutional restrictions, particularly upon legislative powers.

At this time, when the prestige and efficiency of the state governments were at their lowest ebb, there began to appear ringing indictments of the whole state system. Most conspicuous of these were the well known writings of Professors John W. Burgess, of Columbia University, and Simon N. Patten, of the University of Pennsylvania.[1] Nothing happened as a direct result of these writings, but in the early years of the present century the states began to make some progress. There arose in many of them, particularly in the Middle West, a group of able and aggressive leaders who were able to rally extensive popular support, and who, in the governor's office, were able to arouse a new interest in state government and to bring a new vitality and efficiency into the conduct of its affairs. In 1917, the administrative reorganization movement began in Illinois, and from this date on, the progress of the states has been rapid. In this period of transition, in the midst of which came our participation in the World War, the literature of dissent and criticism of the states seems for the most part to have subsided. In the last few years, particularly since the beginning of the de-

[1] See Burgess, "The American Commonwealth," *Political Science Quarterly*, Vol. 1, No. 1, pp. 9–35 (1886), and Patten, "Decay of State and Local Governments," *Annals of American Academy of Political and Social Science*, July, 1890, pp. 26–42 (also Vol. 1, No. 1).

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pression, many writers have returned to the attack. It is interesting to note also that this new literature of criticism has developed parallel with, and in large part as a result of, the rise of the cities, from the governmental point of view.

The most widely known, and one of the most vigorous, of the new critics of the states is Professor Charles E. Merriam, of the University of Chicago. In articles and addresses, he has repeatedly affirmed his belief that the states will neither govern the cities nor permit the cities to govern themselves:

> Most states do not now correspond to economic or social unities, and their validity as units of organization and representation may be and has been seriously challenged. The nation and the city are vigorous organs, but the state is not, comparatively. Certainly as guides and guardians of cities, the states have been singularly ill-equipped and ill-qualified. Conceivably, states might be very useful to cities as administrative superiors, supervising such affairs as finances and police, but practically they have no such function as a rule, and it does not seem probable they will in the near future, so far as metropolitan regions are concerned.[2]

Professor Edward S. Corwin, of Princeton University, seems quite casually to assume this point of view when he says that "notwithstanding the practical advantages of the federal system in earlier days, the concept of dual federalism was always highly artificial, owing not a little to the accidental circumstance that the members of the Union were called 'states'."[3] Professor William Y. Elliott, of Harvard University, recently published a volume in which he develops at some length his vision of a day in which the waste and confusion of forty-eight state governments will be wiped out.[4] To this group may be added the names of such distinguished scholars as Professors James T. Young, of the University of Pennsylvania, Luther Gulick, of the Institute of Public Administration, Roy V. Peel, of New York University, and numerous others.

In general, it may be said that the criticisms leveled against the states through the years have centered around the fact that their boundaries were not determined in accordance with any guiding principles, the claim that they constitute an obstacle to effective

[2] "Metropolitan Regions," an address delivered at the University of Chicago, March 20, 1928, in the *University Record*, April, 1928, and *Syllabus and Selected Readings, Introductory General Course in the Social Sciences*, pp. 427–440 (University of Chicago Bookstore, 1933).

[3] *The Twilight of the Supreme Court* (New Haven, 1934), p. 196.

[4] *The Need for Constitutional Reform* (New York, 1935), Chap. 9.

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local government, and that they have often failed to deal adequately with many of the pressing responsibilities with which they have been confronted. They have failed to adjust themselves, structurally and functionally, to the increased responsibilities imposed upon them, and upon all government, by the developments of modern civilization. They have often failed to coöperate effectively with each other in the development of common policies, and because of restrictive clauses in their constitutions have frequently been unable to coöperate with the federal government. They have offered little if any resistance to the influence of what Professor Corwin has called the federal spending power, or to the increased activities of federal departments and agencies, designed to influence the course of state legislative and administrative action.[5]

I. THE STATES IN THE DEPRESSION

In the period of the depression, numerous influences have tended still further to lessen the prestige, if not the power, of the states. Mention has just been made of the increased influence of federal departments and agencies in directing the course of state legislation concerning subjects of interest to them; the extent to which the federal government has not only dictated the relief policies of the states, but further undermined their control over the relief situation within their own borders by carrying on negotiations and making agreements directly with municipalities; and the development of the metropolitan area, which raises the old problem of the urban-rural conflict in a new and acute form. Each of these will be considered briefly in the paragraphs which follow.

Even a casual observer of events in the field of American government in the last few years cannot fail to have noticed the greater influence of the federal departments upon the course of state legislation, with regard to many different subjects. In the summer of 1934, the author attempted a preliminary survey of these activities. As might have been expected, nearly all of the agencies denied any intention of exerting pressure upon the legislatures with a view to securing the adoption of desired legislation; the only exceptions were, in fact, the Department of Labor, the Bureau of Narcotics,

[5] The author has discussed several of these problems more at length elsewhere: the problems of interstate coöperation, in *Uniform State Action* (Chapel Hill, 1934); "State Constitutional Provision for Federal-State Coöperation," in *Annals of American Academy*, September, 1935. The indictment of the states will be more fully discussed in a forthcoming volume on state government.

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and the Bureau of Public Roads. It can be admitted without question that these activities are undertaken with the very best of motives, and that the legislation so sponsored is generally of a desirable character; yet there are some pertinent questions that may be raised with regard to the practice. What effect does it have upon the established system of American government? Is it ethical for the federal government to use tax moneys for the support of propaganda, and the carrying on of pressure-group activities at the state capitals?[6]

A further inquiry into this general subject during the forty-four legislative sessions of 1935 indicates that the number of federal departments and agencies attempting to exert such influence is even greater than was previously the case, and that they are better organized, know better what they want, and are more insistent upon getting it than in any previous year in which the majority of the state legislatures were in session. The National Recovery Administration, particularly during the second year of its existence, contacted the appropriate state officials, and the state party leaders, in and out of the legislature, through its State Relations Division, in the hope of advancing its model act designed to insure the coöperation of the states with the NRA. In the field of utility control, one finds that the Federal Power Commission anticipates supporting legislation from the states which will make it possible for the Commission to designate the state commissions as its agents in certain aspects of utility control; while a recently published study reveals an extensive amount of coöperation between the Interstate Commerce Commission and the state commissions in the matter of railroad regulation.[7]

The Federal Housing Administration desires legislation permitting all lending and savings institutions to make loans, where they are insured by FHA or where FHA issues the obligation. The recent efforts in this field, on the part of the Bureau of Criminal Identification and the Bureau of Prisons in the Department of Justice, are quite familiar; we find this department sponsoring

[6] W. Brooke Graves, on the influence of federal departments and agencies on the course of state legislation, in *State Government*, December, 1934, pp. 259–262, and in a forthcoming article in the *Cornell Law Quarterly*.

[7] Martin L. Lindahl, "Coöperation between the Interstate Commerce Commission and the State Commissions in Railroad Regulation," *Michigan Law Review*, January, 1935, pp. 338–397.

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congressional legislation, state legislation, and administrative policies, all designed to bring both greater unity in organization and greater uniformity in policy into the task of enforcing the criminal law and the administration of justice generally. California and several other states adopted legislation designed to insure a maximum amount of coöperation on the part of the states with the Agricultural Adjustment Administration, and this organization sought to encourage the adoption of such legislation elsewhere. The Federal Deposit Insurance Corporation has had occasion to be concerned, not merely with supporting legislation in the states, but with the possible modification of existing provisions of state constitutions, where such provisions have interfered with the work of the Corporation. The Reconstruction Finance Corporation has in some instances encountered similar problems. The Home Owners Loan Corporation has drafted, and advanced by such means as are at its disposal, supporting legislation in the states; the General Counsel of this organization feels that the most helpful thing that the states could do would be to authorize the conversion of state building and loan associations into federal associations under the federal law.

Most important of all, perhaps, in the significance of its influence upon the legislative policies of the states, is the program for economic security announced by President Roosevelt in January and finally adopted in June, 1935. If the demands made by the federal program are met by the states—and there is little else for them to do—many of the states will have to reorganize entirely their whole existing legislative and administrative set-up for handling some of the problems included in this program. Taking New York State as an example, old age pensions begin at age of seventy, not sixty-five, and are on a fifty-fifty basis with the communities, as to actual costs and costs of administration. In the same state, mothers' assistance, widows' pensions, et cetera, are entirely a local charge. What happens in this case, if the federal government requires the states to assume a part of the burden in order to qualify for federal funds? It is difficult to say, but it is certain that extensive readjustments would have to be made.[8]

The administrative agencies of the federal government are frequently reported as doing things that would seem, under our sys-

[8] Based on remarks of Senator Seabury Mastick of New York, at meeting of the Interstate Commission on Conflicting Taxation, Washington, January 19, 1935.

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tem, to fall within the limits of state power. For instance, the Bureau of Biological Survey, in a period of three and a half months in 1934, eradicated 7,500,000 disease-carrying rodents in three states, with the aid of CWA funds, at an estimated saving to the infected areas of $8,750,000.[9] The Department of Agriculture regulates and controls the length of hunting seasons—a practice against which, except in very rare instances, there is apparently no protest. Indeed, it is no uncommon occurrence for appeals to be directed to Washington, as soon as the states or the people find themselves faced by some perplexing or difficult situation. This tendency has often been noted, but in view of its existence, is it any wonder that the federal departments and agencies often seek to influence state policies, both legislatively and administratively, even when they have not been asked for assistance?

II. THE FEDERAL GOVERNMENT AND THE CITIES

Nothing that has happened in the course of the depression has had so great an effect upon the position of the states—nor, in the opinion of the author, so regrettable an effect—as the policy of the federal government in going over the heads of the states to deal directly with the cities in the matter of the distribution of relief funds. Such headlines as the following became a commonplace: "Ickes Prods Cities on Works Delays—Government Stands Ready to Lend Liberally if They Will Only Act, He Says;" "Federal School Aid Gives City $245,000." That both the states and the cities have given encouragement to such practices is attested by such headlines as these: "Mayors Decry 'Red Tape'—Resolution in Chicago Asks Easier Terms on Works, Warning of 'Starvation'—$35,020,000 Federal Loans to City Backed by State Advisory Board."

Some authorities, particularly those whose interest lies chiefly in the field of municipal government, have hailed these new developments with approval, and there has grown up a considerable body of literature with regard to them.[10] The members of this

[9] *New York Times*, July 1, 1934, p. 26.

[10] Paul V. Betters, *Federal Services to Municipal Governments* (Municipal Administration Service, New York, 1931); Anon., *Municipal Finance Problems and Proposals for Federal Legislation* (American Municipal Association, Chicago, 1933); Charles E. Merriam, "The Federal Government Recognizes the Cities," *National Municipal Review*, February, 1934, pp. 107–109, 116; Joseph D. McGoldrick, "Federal Financial Aid to Cities," a radio address in the "You and Your Government" Series, June 26, 1934.

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school exercised, for a time at least, a controlling influence with the federal administration. In an article in which the federal government was described as moving forward rapidly on many fronts, Paul V. Betters anticipated changes in relief organization, more Public Works Administration and Civil Works Administration money for the cities, more emphasis on planning, and the adoption of slum clearance and housing programs.[11] His predictions did, in the main, come true, and in addition, the Congress passed the Summers-Wilcox Act, for the purpose of assisting defaulting municipalities.[12] In more general terms, Professor Charles E. Merriam writes in approval of these policies: "In many instances the state is a fifth wheel so far as city government is concerned. The state will neither grant autonomy to the cities nor will it assume the burden of administrative supervision over them. The state will neither rule nor permit anyone else to rule over metropolitan regions."[13]

The extension of federal influence over the cities has not by any means been confined to matters of finance, or relating to relief. Paul V. Betters, in his *Federal Services to Municipal Governments*, has gone through the federal organization, department by department, noting the services rendered to cities by each bureau in each department. The table of contents of his study is an impressive bit of evidence of the extensiveness of these services. In the Department of Commerce alone, he found eight such services in the Bureau of Standards; ten in the Bureau of Mines; six in the Aëronautics Branch; four each in the Coast and Geodetic Survey and the Bureau of the Census; and additional services in the Bureau of Fisheries, the Bureau of Foreign and Domestic Commerce, the Steamboat Inspection Service, and the Bureau of Lighthouses. This type of activity has gone far enough so that press reports are frequently seen on such subjects as the manner in which the federal crime drive prods long lethargic cities into mak-

[11] "What Cities Can Expect from Washington," *Public Management*, January, 1934, pp. 6–7.

[12] For a discussion of this measure, written shortly before its enactment, see E. Fleetwood Dunstan, "Federal Legislation to Help Defaulting Municipalities," *National Municipal Review*, February, 1934, pp. 96–99. For a later discussion, see Saunders Shanks, Jr., "The Municipal Bankruptcy Act," *American Political Science Review*, December, 1934, pp. 1072–1074.

[13] "Cities Look to the Federal Government," an editorial in *Public Management*, January, 1934.

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ing life less pleasant for gangdom, or the manner in which cities utilize the precise longitude and latitude bearings established by the Coast and Geodetic Survey in laying down lines of city streets and building plots.

Still another development of modern life has contributed to the importance of the relations between the cities and the federal government, namely, the growth of metropolitan areas. This is but a phase of the age-old problem of the urban-rural conflict. The larger centers of population have continued to grow, not only without regard to the geographical boundaries of the minor political subdivisions within the states, but without regard to the boundary lines of the states themselves. These cities, and the suburban areas which surround them, have problems quite distinct from the rural districts of the states, which still maintain their control of the legislative bodies. Neither group shows much understanding of, or concern for, the problems of the other. Out of this situation develops the dissatisfaction of the urbanites with the existing state system, and the pleas for its modification, later to be discussed.

Whether or not one agrees with the extreme demands of those who see no solution for the shortcomings of the states except their abolition, any well informed and impartial person must admit that some modification of the existing practices of the states must be made, unless, as Elihu Root predicted more than thirty years ago, the states are to lose their power. "There has been," as one recent writer observes, "a complete lack of purpose, plan, and program on the part of the sovereign states toward integration and harmony."[14] The possible alternatives are two in number. If the states are to be abolished, there must be set up in their place some system of zones or regions, to serve for those administrative purposes which require a unit smaller than the central government and one larger than the local units. In the second place, it is conceivable that the state organization might be retained, with such modifications as might be deemed necessary, in order to remedy the more serious defects that have become manifest in the operation of the system as it exists at present. These two alternatives will now be discussed.

[14] Philip Sterling, "To Re-create a More Perfect Union," an address before the Pennsylvania Council of Republican Women, Harrisburg, November 14, 1934.

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III. PROPOSALS FOR REGIONALISM

The idea of the use of regions for administrative purposes is not new, either in Europe or in America. In the former, it has been familiar for at least a hundred years—in Great Britain, France, Spain, Russia, and elsewhere. Historically, it is much older, having existed in Italy under the Romans, in Manchuria under the Chinese, and in Crimea under the Russians. In the United States, the problem of sectionalism was long one of great concern, and is still a favored subject for historical study and investigation. While it has commonly been regarded with disapproval, because of its supposed detrimental effect upon national unity, it is true that Professor Patten, in the paper referred to above, did urge the development of regions in the following words:

> Instead of regarding the boundaries of our states as fixed and unchangeable, we should recognize that we are only beginning to get the data upon which to decide where the boundaries of states can be properly located. If our states are to be a vital part of our political system, each section of our land which has distinct physical, social, or economic conditions should be carved out of existing states and given that independence needed to make its government reflect the sentiments of the inhabitants. A mining section should not be forced into an incongruous union with wheat-growers, nor should the latter be united with a grazing or a fruit-growing region.[15]

For the most part, however, it is only recently that regionalism has been advanced by serious students as an end to be fostered and encouraged. This may be merely a phase of a larger movement, for recent newspaper reports indicate that Hitler plans the abolition of state lines in Germany, with a subdivision of the Reich into approximately equal districts governed by federal representatives, and centralizing the police power in the hands of the central government.

One of the clearest statements favoring the regionalization of the United States comes from Professor Roy V. Peel, of New York University:

> It is my proposal that they (the states) shall be divested of all the political attributes which they now have, except those which are of a historical or purely ceremonial character. These attributes, whether of status or function, I would redistribute among a series of political units, beginning with the neighborhood or commune, at the base, and proceeding to the nation, at the top. Midway between the units which I have named stands the *region*, by which is meant *that area within which geographic fact, economic organization, social custom, and political interest have*

[15] Patten, *supra*.

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established and fostered a sense of cohesiveness and community of interest which distinguishes it from any other area.[16]

Proposals of this general character have in recent years been numerous. Professor James T. Young, in an address before the American Philosophical Society in 1933, urged the erasure of the present state lines and the formation of larger geographical sections in place of the present forty-eight states. James M. Beck, eminent conservative and authority on the Constitution, has bemoaned what he asserts as the "incontestable fact" that in recent years "the wealth of the industrial states has been slowly diverted to support mendicant agricultural states which take from the public treasury more than they contribute." To meet this situation, he offers the suggestion: "a new constitution which would revise the present artificial division of the nation by creating three or four self-governing groups of states whose economic interests are the same, and with a common bond of a central government to carry out the original objectives of the Constitution, might be better calculated to preserve the Union than the present distribution of political power."[17] Obviously, this places the case for regions upon a very different basis than that commonly relied upon. Another former member of Congress, also from Pennsylvania, E. J. Jones of Bradford, urges a complete reorganization of the governmental structure in America:

I see no reason why groups of states could not be consolidated. For instance, why couldn't the New England states function as one? Groups of Western states with a population less than Philadelphia maintain separate state and county machines, with tremendous and unnecessary overhead expenditures. It may sound revolutionary, but I would suggest that the Union consist of no more than twelve states. The House of Representatives could then be reduced to forty-eight members, and it probably would do far more than it does with its present membership.[18]

[16] "The Displacement of States by Political Regions," an address before the Conference on Metropolitan Government, New York City, October 19, 1932 (mimeographed). G. D. H. Cole defines regionalism as "primarily an attempt to face the difficulty of the loss of local self-government . . . by making local areas real areas . . . to restore the influence of local spirit upon the work of social administration. It is an attempt to define areas which are at once units of social feeling and, as far as possible, also areas of economic life, and suitable to serve as units for the work of administration." *Social Theory* (London, 1923), pp. 160–161.

[17] Address before the Bankers and Manufacturers Club of Philadelphia, May 9, 1933.

[18] Address before a district conference of the Rotary International in Philadelphia, May 1, 1934. For later proposals, see the report of the National Resources Board; and cf. the efforts at coöperation already under way in the New England region.

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The author of a recently published volume on *Our Obsolete Constitution* proposes nine regional states in place of the present forty-eight.[19]

These are merely a few of the suggestions of this character that have happened to come to the author's attention—nobody knows how many other speakers and writers have given expression to similar ideas or have been thinking along similar lines. Before we turn to another aspect of the question of regionalism, let us consider one more proposal for the reconstruction of the states—one advanced by Professor Simeon E. Leland, of the University of Chicago:

> Rural government should be turned over to the state, with suitable rural administrative areas taking the place of existing counties. The states, in turn, should be divested of their legislative functions and be made administrative areas of the federal government with flexible boundaries. The anomaly of having forty-eight legislatures to solve similar problems in forty-eight different ways would be ended. Legislative choas would be replaced by national uniformity in codes, technique, and quality of administration. The states long ago demonstrated their inability to regulate railroads, trade, commerce, or corporation finances. Conferences, conventions, and uniform law commissions have failed to solve these problems or bring order out of legal chaos. The alternative remedy of changing our form of government so as to make possible the intelligent solution of these problems has received little or no consideration. At a time when security of private banking and the revival of industrial prosperity so clearly call for unified national action, the follies of maintaining the traditional governmental set-up with its forty-eight independent states should be strikingly demonstrated. If, then, to the federal government were transferred those problems of more than local concern, if the states met the rural needs, and if the cities were given complete jurisdiction over urban problems, our major economic, social, and fiscal dilemmas would be near solution. Complete fiscal coördination would then be easily attained.[20]

IV. THE PROGRESS OF REGIONALISM TO DATE

No one can read this group of proposals for the establishment of regional government in the United States without being impressed by the lack of agreement among the authors, either as to the number of regions or as to the basis upon which they should be set up. This alone might to some extent discredit their proposals, were it not for the fact that one making a serious inquiry into the question of the future of the states cannot properly toss aside

[19] W. K. Wallace, *Our Obsolete Constitution* (New York, 1932), p. 185.

[20] "The Coördination of Federal, State, and Local Fiscal Systems," *Municipal Finance*, August, 1933, pp. 35–46.

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lightly any serious proposal advanced by responsible persons. Such an inquirer must remember that while the federal government has used the states for many administrative purposes as a matter of convenience, there are many others for which zones have been established which disregard state boundary lines. There are literally dozens of federal activities and services in connection with the conduct of which a zone or regional system of administration has been in use for years. While the following table has been compiled with some care, no claim is made that it is either complete or exhaustive.

REGIONAL OR ZONE ADMINISTRATION IN THE FEDERAL GOVERNMENT

Department	*Service or Agency*	*Number of Zones or Districts*
Treasury	Mints (Philadelphia, Denver, San Francisco)	3
	Coast Guard districts	7
	Narcotics divisions, Bureau of Internal Revenue	14
	Secret Service districts	35
	State units, United States Public Health Service	48
	Customs collection districts	49
	Internal Revenue districts	65
(Banking services)	Home Owners' Loan Corporation regions (over 300 officers in the three regions)	3
	Federal Reserve Bank districts	12
	Federal Land Bank districts	12
	Federal Home Loan Bank districts	12
	Federal Deposit Insurance Corporation districts	12
	Farm Credit Administration districts (coincide with Federal Land Bank districts)	12
	Intermediate Credit Bank districts (coincide with Federal Land Bank districts)	12
	Banks for Coöperatives, under Farm Credit Administration, in Federal Land Bank cities	12
	Federal Savings and Loan districts (coincide with Federal Home Loan Bank districts)	12
	Reconstruction Finance Corporation regional offices	32
	Reconstruction Finance Corporation Mortgage Company agencies	32
	Home Owners' Loan Corporation state offices	48
War	Army areas	3
	Army Engineer Corps divisions	8
	Army Corps areas (subdivisions of Army areas)	9
	Industrial districts, called Ordnance districts	14
	Infantry Division areas, for National Guard (subdivisions of Army Corps areas)	20

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Department	*Service or Agency*	*Number of Zones or Districts*
	Infantry Division areas, for Organized Reserves (subdivisions of Army Corps areas)	27
	Army Engineer Corps districts (subdivisions of Army Engineer Corps divisions)	38
Justice	Judicial districts	10
	District courts	90
Post Office	Air Mail Service districts	3
	Parcel Post zones	8
Navy	Naval Communications and Reserve Force districts	15
	Army and Navy radio stations	16
Interior	National Park Service (24 national parks, 67 monuments, 110 battlefields, et cetera)	
	Topographic Branch, U. S. Geological Survey, divisions	3
	Oil and Gas Leasing Division, field supervisory districts	3
	Vocational Rehabilitation Service regions	4
	Bureau of Reclamation operation and maintenance districts	5
	Division of Grazing regional areas	5
	State Park Emergency Conservation Work	8
	Bureau of Mines districts	9
	General Land Office districts	10
	General Land Office district offices	25
	Office of Indian Affairs regional headquarters	32
	Division of Surface Water district offices	36
	Office of Indian Affairs regional supervisors	75
Agriculture	Bureau of Animal Industry, Meat Inspection divisions	2
	Food and Drug Administration zones	3
	Weather Bureau, Aviation Forecast zones	3
	Weather Bureau, districts for forecast purposes	7
	Bureau of Animal Industry, Meat Inspection laboratories	7
	Forest Service districts	8
	Farm Credit Administration districts	12
	Soil Erosion Service regional directors	39
	Weather Bureau, Climatological Service districts (with few exceptions, these follow state lines)	44
	Bureau of Entomology and Plant Quarantine state units	48
	Bureau of Plant Industry state units	48
	Weather Bureau, Climatological Service sections (subdivisions of the districts)	106
	Weather Bureau field stations	204
	Cities where the output of meat-packing establishments is inspected	225

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Department	*Service or Agency*	*Number of Zones or Districts*
Commerce	Coast and Geodetic Survey field stations	5
	Census Bureau regional areas for purposes of comparison	9
	Steamboat Inspection Service, Supervising Inspection districts	11
	Coast and Geodetic Survey, Coast Pilot sections, for giving information	15
	Lighthouse Service districts	19
	Bureau of Navigation districts (coincide with Customs districts)	49
Labor	Immigration districts	34
	Employment Service districts (1,000 subdistricts)	750
Emergency and Miscellaneous Agencies[21]	Federal Coördinator of Transportation, regional committees	3
	Federal Trade Commission branch offices	4
	Petroleum Administration regional boards	5
	District Coördinators of Purchase and Supply	7
	Federal Power Commission zones	7
	Securities and Exchange Commission regional administrators	7
	Federal Emergency Relief Administration regional field representatives	10
	Public Works Administration regions	10
	National Resources Board districts	11
	Resettlement Administration districts	11
	Federal Housing Administration regions	12
	United States Employees' Compensation Commission district offices	12
	United States Civil Service districts	13
	Regional Labor Relations Boards, under the National Labor Relations Board	17
	Commodity Credit Corporation district offices	19
	Federal Communications Commission field offices	21
	National Labor Relations Board regional directors	21
	Regional Agricultural Credit Corporations, regional branch offices	22
	Veterans Administration regional offices	25
	Federal Emergency Administration of Public Works state units	48

[21] The American Red Cross had thirteen zones at the time of the World War, but has operated since with six or eight divisions. The Railway Administration had six regional directorships, and eight, twelve, or nineteen consolidation zones have since been proposed for the railroads. The National Recovery Administration had nine regional compliance offices, and state compliance offices in fifty-three states and territories.

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Department	*Service or Agency*	*Number of Zones or Districts*
	National Emergency Council state directors	48
	National Reëmployment Service state directors	48
	State Planning Boards, coöperating with the National Resources Board	48
	Federal Emergency Relief Administration state directors	48
	Public Works Administration state units	48
	Works Progress Administration state units	48
	National Youth Administration state directors	48
	Federal Housing Administration state directors	48
	Federal Housing Administration districts (subdivisions of the twelve regions)	72
	Veterans' Administration offices	80

From the table, it is clear that while zones and districts in unusual and irregular numbers have been set up for a large variety of purposes, there are a great many for which the states have been employed as administrative districts. This is true of the older services as well as of those created for emergency purposes. In the former class, we have the United States Public Health Service, the Office of Education, the Federal Board for Vocational Education, the United States Employment Service, and many others; among the emergency agencies, there are, or have been, state units and directors for the National Recovery Administration, the Agricultural Adjustment Administration, the National Emergency Administration of Public Works, the National Reëmployment Service, the National Emergency Council, etc. In the Federal Emergency Relief Administration, the state administrators have served in a dual capacity, being at the same time for many purposes the agents of the federal government. The states have for this work been required to set up a state organization, and to supervise the administration of relief by the county units, thereby practically eliminating from the relief picture the old local poor-boards in such states as Pennsylvania.

V. THE MERITS OF THE REGIONAL PLAN

It is, then, perfectly clear that the idea of regional or zone administration is not anything new in the United States; the current proposals would merely extend the principle, and introduce it as

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at least a partial substitute for other administrative devices now in use. There is nothing revolutionary about it; the important questions center rather about such considerations as its wisdom and its practicability. To the present writer, there seems to be little indeed to commend the plan for the regionalization of the United States, if by this is meant the virtual abolition of the present states and the establishment of new administrative districts in lieu thereof. It seems clear that so drastic a plan of reform is not required to remedy the admitted weaknesses of the present system; even if it were, there seems to be little likelihood that its adoption could be brought about at any time in the near future. The reasons upon which this conclusion is based are summarized herewith.

In the first place, there has developed within the states a civic cohesion, a sense of attachment, a love of locality, which could not easily be broken down. The longer the states remain as states, the stronger this attachment becomes. To say that it is illogical and sentimental in character is to beg the point—although it is both. There is a devotion to the soil, to the life and history and institutions of the state, to the land of one's fathers, which no one can deny who has ever come in contact with native Bostonians or native Philadelphians or native Virginians or native Californians. In the words of Kipling:

> God gave all men all earth to love,
> But since our hearts are small,
> Ordained for each one spot should prove
> Beloved over all;
> That, as He watched Creation's birth,
> So we, in godlike mood,
> May of our love create our earth
> And see that it is good.[22]

Against such emotional attachments, the considerations of pure logic are ineffective indeed. This "persistence of the states is due to many historic facts; to the real differences in character, customs, and loyalties which obtained in colonial days; to the use of constitutional arguments by men like Taylor, Roane, and Calhoun, who were actually defending not state, but sectional, interests; to geographic isolation as in the case of California, or cultural homogeneity as in the case of Louisiana; and to the accumulative psychological force of state pride, with its separate institutions,

[22] Opening stanza of *Sussex*.

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leaders, histories, songs, mottoes, battle-flags, and relics. And in, addition to all these forces, the state has persisted in America because it has been looked upon, even by such divergent party leaders as Governor Ritchie and President Hoover, as the natural bulwark of local self-government."[23]

In the second place, even if one were to grant that the establishment of such a system were theoretically desirable, there is nothing in the record to indicate that it could be accomplished at any time between the present and the coming of the millennium. We have already seen that zones have been used by the federal government for a wide variety of purposes. In nearly every such case, the number of zones has been different; and in those few instances in which the same number of zones was set up for two different purposes, as in the case of the twelve districts for the Federal Reserve Banks and the twelve districts for the Federal Land Banks, the boundaries of the zones have been totally different. This is not a criticism of what has been done; it is simply an observation upon an inevitable and inescapable fact. No one who possessed anything less than the intellect of an Aristotle, the wisdom of Solomon, and the political acumen of a Roosevelt could possibly hope to devise and secure the adoption of a regional plan for the United States which would reconcile all of the conflicting requirements of an extensive number of different administrative purposes. There is no evidence at hand to indicate that, aside from the New England group, there is any possible grouping of states that would be uniformly satisfactory. The interests of states would prompt them to line up in one way for one purpose and in another way for another. It seems more than likely that any grouping that might be adopted on the basis of inevitable compromises would develop deficiencies and defects just as important and just as annoying as those with which we are now confronted; we should merely be substituting one set of problems and difficulties for another.

This point is well illustrated by the failure of President Wilson at the Peace Conference at Versailles; with the magic formula of self-determination, he sought to re-determine the boundary lines of many of the countries of Europe, only to discover then himself, or for us to discover later, that boundary lines are not merely

[23] Peel, *supra*.

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matters of logic. The point is further illustrated by the fact that of the many national associations of state administrative officers formed in the United States, no two use precisely the same basis for determining the number of regional groups which they will maintain, nor the same grouping of states, even where the number of districts is the same.[24]

Finally, compulsory regionalism is not only impractical and undesirable, and probably impossible of operation, but it is wholly unnecessary. There is another possible solution which, if adopted, can do all that regionalization could possibly do, without encountering the difficulties connected with that alternative. To that solution, we shall presently turn our attention.

VI. PROPOSALS FOR CITY-STATES

The plans we have been discussing would call for a complete overhauling of the existing intermediate administrative units; the states, if retained at all, would lose their present powers and serve merely in the capacity of administrative subdivisions within larger districts. There are others who would upset the existing arrangements, but in quite a different manner. Moved primarily by the desire to solve the age-long urban-rural conflict, they would create city-states out of the metropolitan areas which have grown up around our larger cities. They argue that our present arrangement is quite illogical and unsatisfactory, and that these areas should be considered as units, regardless of existing state boundary lines. The Tri-State Regional Planning Federation for the Philadelphia area has shown that this area in reality includes not only the city and county of Philadelphia, with the suburban counties in Pennsylvania adjacent thereto, but much of southern New Jersey from Trenton down, and northern Delaware as far south as Wilmington. Similarly, in the New York area, it is argued that socially and economically, northern New Jersey and southwestern Connecticut are integral parts of the greater city of New York.

Professor Charles E. Merriam has urged the adoption of this plan on many occasions, both in his writings and in his numerous appearances on the public platform. The city states which he visualizes would answer many of the problems now confronting

[24] Many of these groupings are presented in the text and in Appendix B of the author's *Uniform State Action.*

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local government; they would resemble closely such units now existing in several European countries, notably Germany. These areas would have an autonomous government, divorced from state control, transcending state boundaries, and having their own legislative, administrative, and judicial bodies. In every state containing large metropolitan areas—New York, Michigan, Pennsylvania, and California, for example—a diversity of interests exists between those areas and the rest of the state. Constant friction arises between representatives of the rural and the urban populations in state legislatures; in many instances, this has developed into a bitter hostility.[25] Elsewhere Professor Merriam observes:

> In the Chicago region, for example, which we construe as fifty miles from State and Madison Streets, there are not less than 1,500 independent governing agencies undertaking to carry on the governmental functions incidental to the life of a community of three and a half million people. Metropolitan Chicago extends into four different states, Illinois, Wisconsin, Indiana, and a corner of Michigan; it includes fifteen counties and an innumerable array of cities, villages, towns, townships, school districts, park districts, drainage districts . . . . It is conservatively estimated that the population of the Chicago area in 1950 will approach eight million. Problems of regional organization are presented not only in American cities such as Boston, Philadelphia, Pittsburgh, Cincinnati, San Francisco, but in the great cities all over the world.[26]

This situation makes it difficult to carry on efficiently in almost the whole range of public activities. Meanwhile, the emigration from the central urban areas continues:

> There are more Bostonians outside of Boston than inside the corporate limits, in the ratio of 750,000 to 1,000,024 out. There are 205,000 Cincinnatians outside the city and 400,000 inside. There are over 600,000 Pittsburghers outside the city. There are two and a quarter million New Yorkers who are outside the town. Chicago has half a million Chicagoans who are not in the city and three million who are.

On the subject of municipal home rule, the same authority says:

> Cities have been given too much power without supervision, or not enough with wise and temperate supervision. In any case, it is too much to expect New York to supervise New York or Illinois to supervise Chicago, when these cities are half of the supervising body itself. Cities have been benevolently protected by constitutional and statutory restrictions against almost everything except deadlock and paralysis. There is today on the statutes of Illinois a measure giving specific authority to the city of Chicago to license the selling of peanuts and popcorn on the Mu-

[25] *Philadelphia Record*, December 10, 1932.

[26] Merriam, *supra*, p. 428.

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nicipal Pier, and the checking of hats and coats; otherwise the power could not safely have been undertaken. States have had the powers of life and death over cities, but have not been willing to assume paternal responsibilities. If a state could be guilty of a crime, some of them would long ago have been brought before some court of competent jurisdiction and punished as are neglectful parents in a modern court.[27]

Professor Merriam believes that "the urban community is a more effective counter-weight to the centralizing tendencies of federal government than the feebly struggling states which now make such ineffectual resistance to the continuous pressure of national consolidation." On the basis of the size of the cities, as compared with many of the states, he believes the proposal a reasonable one. "Already there are seventeen cities of a population of over 500,000; nine states with less population than that. And if economic resources and prestige are added to numbers, the contrast is far more striking."

Whatever solution is finally made of these difficult questions will be determined very largely on the basis of financial considerations. The facts with regard to this subject seem to favor the Merriam proposal:

> Fiscally, the cities are more important than the states; the federal government outranks either. In 1930, the revenues of the national government were almost seven times greater than those of New York City, the second largest governmental unit in the country. The state of New York outranked Chicago and the state of Pennsylvania, but Los Angeles, Detroit, and Philadelphia came ahead of California and Michigan. Thus the ten largest governments are the federal government, five cities, and four states. One hundred sixty-five governments must be listed to include all of the forty-eight states. Nevada, which comes last on the list, is separated from New Mexico by fifty-six cities. The eight cities of New York, Chicago, Los Angeles, Detroit, Boston, St. Louis, Baltimore, and Seattle are more important fiscally than the states which contain them. Cleveland and Cincinnati together spend more than the state of Ohio, but with state expenditures on highways excluded, the fiscal operations of Cincinnati practically equal those of the state. New York City spent more on education in 1930 than the receipts of any one of the 160 fiscally largest governments, a list which included forty-six states. It spent more on the retirement of city employees, or on the retirement of teachers, or on its health department, or board of child welfare, than was raised by the state of Nevada for all purposes. The continued expenditures of that city for these four services exceeded the combined expenditures of Nevada, New Mexico, and Arizona. The expenditures of New York City on its police department exceeded the revenues of Indiana, or Missouri, or any one of thirty-five other states. Its fire department spent more than Florida, Arkansas, or West Virginia, not to mention eighteen other states. The

[27] *Ibid.*, pp. 431–432.

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Chicago police department cost more than the state governments of Mississippi, or Delaware, or Utah. It spent more on street cleaning and garbage removal than was expended for all governmental purposes by the state of Nevada. The combined expenditures of New York and Chicago on police and fire departments exceeded in 1930 the aggregate expenditures of any one of the 155 fiscally most important governments. These expenditures on fire and police protection exceeded the revenues collected by any one of forty-four states. The fiscal importance of cities, it seems, should soon be recognized.[28]

These statements may all be true, but somehow they fail to convince one that the whole system of the state governments should be overhauled and reorganized. The objections raised to the former plan apply with like effect to this one. Nowhere has the situation with regard to the cities and the states been better summarized than in the address delivered by President Harold W. Dodds, of Princeton University, on the occasion of his election to the presidency of the National Municipal League:

> I do not wish to be understood as predicting the immutability of the states as at present constituted. In many instances, state boundary lines are today historical survivals whose values are largely sentimental. I am thinking of the state as a unit of government intermediate between the locality and the nation, and such a unit has value and constant possibilities. In the course of the years, the present circumstances of area and function of the states may be modified, but I do not foresee an abandonment of the principle of national federalism, although its internal structure may be changed as time progresses.[29]

VII. THE FUTURE OF THE STATES

At a meeting of the governing board of the American Legislators' Association in Washington, in January, 1935, President William B. Belknap observed that the states are historically, and in every other way, very independent; they are, he said, so independent that they are going to commit suicide independently, if we do not watch out. This is literally true. The prestige of the states has declined, due to their failure to function effectively in important fields; it has declined as the number of states has increased; there is, without doubt, a larger number of states than can be logically justified. Some of the Eastern states are too small and some of the Western ones are too large. Again, it has been suggested, the prestige of the states has declined as they have attempted to assume the responsibility for the regulation of public utilities.[30]

[28] Leland, *supra*, pp. 35–36.

[29] "The Future of Municipal Government," *National Municipal Review*, December, 1934, pp. 646–649.

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The cities suffered under this burden for many years, during which we had the greatest inefficiency and corruption in municipal government; it is a type of control with which special influence and pressure-group activities seem to be inevitable. The more powerful the latter are, and the more the states fail to achieve their purpose of effective regulation, the more their prestige as units of government is bound to suffer. Still again, the states have suffered because they have in general failed to offer effective resistance to federal encroachments upon their powers, and because they have so often failed to solve suitably problems requiring uniform action and reciprocal and coöperative relationships.

The states must, in the slang phrase, "put up or shut up;" either they must produce results or they must expect to continue to lose power and prestige, and look forward eventually to some readjustment of the boundaries of the intermediate administrative areas, standing between the federal government and the local units. The causes of the decline of the states, and of their loss of prestige, are well known. The methods or techniques by which the states may redeem themselves are, therefore, quite clear. By setting their houses in order, the states may halt the existing tendencies and restore some of their lost prestige.

A large majority of those who have done any intensive work in the field agree that we must keep the states.[31] The states still have many essential—indeed, indispensable—functions to perform.[32] The most desirable solution would seem to be for the states to improve their own organization and administrative efficiency, and so far as is consistent with efficiency, cut their costs. There is no doubt of the fact that some reorganization of our governmental machinery is needed, as well as a reallocation of the functions of government. The smaller units are, however, the ones that should be eliminated, the powers of government in the urban areas being concentrated in the municipalities, those in the rural areas being concentrated in the counties, keeping the states as the important

[30] This thesis is advanced by George C. S. Benson, of the American Legislators' Association.

[31] There was practically unanimous agreement on this point at a round table meeting on the future of the states, at the annual meeting of the American Political Science Association in 1934. This group was composed of the ablest state government men in the country, with representatives of the municipal group.

[32] Cf. Rodney L. Mott, "Still the United States," *National Municipal Review*, May, 1934, pp. 264–267.

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units of general government and as the intermediaries between the federal government on the one hand and the cities and counties on the other. If this is done, there will remain only the question of securing a more effective coöperation among the states.

It has been said repeatedly that modern methods of communication and transportation have greatly reduced the significance of factors of time and distance. Our present units of local government were created, for the most part, back in colonial days, before these methods were known. The units were consequently small, so that the government might be convenient and accessible to the life of the ordinary citizen. The activities of government were limited in number and restricted in extent. In our own day, when quite the opposite is true, these services can be—indeed, they must be—performed in larger units if they are to be performed efficiently in the kind of society that these modern methods of communication and transportation have created. The tendency of modern government is to move the functions of government to successively larger units. This leaves the smallest of the older units with no functions to perform, and with no excuse for their continued existence. We may then dispense with towns and townships, villages and most of our boroughs, special districts for schools and highways and water and sewers and innumerable other purposes. This will leave us with a rational governmental structure, suited to the conditions and needs of the day in which we live. We shall have, as has been suggested, the functions of local governments in urban areas concentrated in municipalities, and the functions of local government in rural areas concentrated in the counties. Under modern conditions, government will still be close to the citizen, and yet the unit of administration will be large enough to employ the services of full time, trained personnel, and to operate efficiently. The state will supervise and coördinate the activities of the various cities and counties, render important services of its own, and carry on all necessary relations both with neighboring states and with the federal government.

The problem of the relations of the states with each other has, for our present purpose, two aspects—their relations with their immediate neighbors, and their relations with the other forty-seven states in the Union. Informal coöperation between neighboring states may accomplish much; where a more formal agreement is required, there is the possibility of the interstate compact,

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which is now being urged as a means of dealing with oil production, utility regulation, labor regulation, and by the Department of Justice in the matter of crime control.[33] It is entirely conceivable that regions of adjacent states with similar problems and interests might be developed more or less informally, without adopting the extreme form of regionalism previously discussed. The New England states have carried on such coöperative arrangements for a period of several years; groups of states in the South and West and Middle Atlantic regions have experimented along the same line. There is no reason why this type of thing should not be encouraged, and every reason to believe that its encouragement would be highly useful.

In the field of interstate relations on the larger scale, much has already been written. Machinery already in existence for the development and enforcement of uniform policies must be perfected and made more effective. A distinguished legislator in one of our Eastern states writes:

> The time has come when complete coöperation between the states must be implemented. Unless a plan and an agency is set up to provide the states with a method by and through which such integration can be accomplished and maintained, an even further federalization of the American government will result . . . . Although the exact scope of the jurisdiction of the federal government is yet unknown, there still remains a broad area in which the federal government does not have jurisdiction. In this field, we have chaos—resulting not through the fault of the federal government . . . but rather resulting from inertia on the part of the governments of the several states.[34]

In 1789, the framers of our federal Constitution stated as one of their purposes and objectives the formation of a more perfect union; we who live a century and a half later must dedicate ourselves to the task of recreating the union which they established into one more perfect still. This can be done only through the successful development of such organizations as the American Legislators' Association, the Council of State Governments, the Interstate Reference Bureau, the Interstate Assembly, the Interstate

[33] The effectiveness of this method is open to serious question. Recent studies made by Miss Jane Perry Clark, of Barnard College, and Professor J. Q. Dealey, Jr., of Hamilton College, agree that, on the basis of its past record, the compact method offers little prospect of success. See Miss Clark's article, "Interstate Compacts and Social Legislation," *Political Science Quarterly*, Dec., 1935, and Mar., 1936.

[34] Sterling, *supra*.

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Commission on Conflicting Taxation, etc. In addition, we must perfect the existing associations of state administrative officers, and perfect the techniques of federal-state coöperation, not leaving to the federal government the entire responsibility for the development of such coöperation.[35]

Legislation is—or should be—a profession, and the American Legislators' Association is the professional organization of the 7,500 state legislators. It is studying the means for securing better qualified legislators, for improving the organization and procedure of the legislature, for developing worthy professional standards, and for providing better technical assistance to all legislators through state reference bureaus and through the Interstate Reference Bureau. It is endeavoring to broaden the perspective of legislators by state conferences, regional conferences, and national conferences—and by other means.

The Council of State Governments is primarily concerned with those governmental spheres over which the federal government has no jurisdiction. It seeks to develop better coördination and more active coöperation between groups of states as a whole. It also seeks to bring the state governments into better adjustment with the federal government—and with town and city governments.

The Interstate Reference Bureau is a clearing house of information concerning problems of *state* government. It was "originally established for the use of state legislators and is now rendering service also to executive and administrative officials of the states. Since federal policies relating to many subjects cannot be determined intelligently without accurate information concerning the statutes on the same subjects in each of the forty-eight states, the Bureau is being consulted frequently by federal officials."

The Interstate Assembly, which was organized in 1932 and 1933 with the support of two successive presidents of the United States, is composed of three delegates from each state; one designated by the governor, one by the house of representatives, and one by the senate of the state. Like the Council of State Governments, it views governmental problems as a whole; like the Council, it

[35] See the suggested program for the hastening of uniformity in Chapter 20, and the classified list of organizations of administrative officers in Appendix B, of Graves, *Uniform State Action*.

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"brings together alert officials who are interested in coördinating the legislative, administrative, and executive activities of state government, and strives to perfect the machinery for attacking the problems of state government as a related whole." The First Assembly, which met in 1933, considered state and interstate problems of taxation, and as a natural corollary, the dangers of duplicate taxation, while the Second Assembly considered such problems as the Federal Highway Act of 1934, state planning boards, costs of public works, public service personnel, financial statistics for state and local governments, the establishment of regional secretariats, etc.

The Interstate Commission on Conflicting Taxation, which is composed of legislative and administrative officials of the states, was created by the Interstate Assembly, and directed to study the problem of coördinating the taxing systems of the forty-eight states and the taxing system of the federal government. This Commission, with its advisory board and technical staff, is engaged in active negotiations with congressional committees and with other federal agencies. During an existence of little more than two years, the staff has made numerous studies of short-run and long-range proposals for the coördination of the tax plan of the states and the federal government.[36]

In addition to these several organizations, each dealing with a specialized aspect of the general problem, there is the magazine *State Government*, which is the only periodical in the country exclusively devoted to the improvement of state laws and state government.

At present, "the laws of the states conflict, their practices diverge, their policies are antagonistic. In the face of a universal demand for harmony, the states are functioning as forty-eight sovereign nations, each going its own sovereign way. Such chaos cannot continue. One of two courses is inevitable. Either many of the remaining functions of the states will rapidly pass into federal control, or else the states must hasten to coöperate with each other

[36] James W. Martin, "Conflicting Taxation at the Second Interstate Assembly," American Bar Association *Journal*, April, 1935, pp. 207–210, 238–239, gives an excellent summary of the achievements of the Commission during this period. See also *Conflicting Taxation* (Chicago, 1935), and C. H. Pritchett, "Regional Authorities through Interstate Compacts," *Social Forces*, Dec., 1935.

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as they have never coöperated before."[37] Organizations of the type described here, supported by suitable publicity, together with the national and regional organizations of state administrative officers, offer the main hope for the future of the states. If these organizations fail, the states fail; if the states fail in these critical times, the Union must inevitably cease to be "the Union as it was."

[37] All of these quotations descriptive of the organizations with headquarters at 850 East 58th Street, Chicago, are taken from the March, 1935, issue of *State Government*.

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CONSTITUTIONAL LAW IN 1934–35

THE CONSTITUTIONAL DECISIONS OF THE SUPREME COURT OF THE UNITED STATES IN THE OCTOBER TERM, 1934

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In the 1934 term, the Supreme Court came to grips with some of the major constitutional problems of the New Deal and rendered decisions more intimately affecting our national life than any since the Dred Scott case of 1857.[1] The great slavery decision rocked the nation to its foundations by its futile attempt to solve a problem insoluble by any means save war. The important constitutional decisions of the Reconstruction period in their immediate consequences affected mainly the South, and it will be remembered that by a series of side-steppings, some involuntary and some not,[2] the Supreme Court escaped the necessity of passing squarely upon the validity of the basic program of Reconstruction as embodied in the act of 1867. Forty years ago, in its 1894 term, the Court incurred much unpopularity by three decisions of major significance. It invalidated the Income Tax Act passed in fulfillment of Democratic campaign pledges;[3] it emasculated, temporarily at least, the Sherman Anti-Trust Act by holding it inapplicable to a most obvious and vicious monopoly—the sugar trust;[4] and it incurred the hostility of organized labor by sustaining the issuance by a federal court of a labor injunction.[5] None of these decisions was, however, nor were all of them together, as far-reaching in significance as those handed down in the last term of Court.

The importance of the New Deal decisions lies, of course, in the importance of the New Deal. There has been thus far no startling assumption of judicial power by the Court. That tribunal has merely met and dealt with constitutional issues as they have arisen. The New Deal, however, comprised a comprehensive, integrated

[1] Dred Scott v. Sandford, 19 Howard 393, 1857.

[2] The Court refused to take jurisdiction in Mississippi v. Johnson, 4 Wallace 475, 1867, and Georgia v. Stanton, 6 Wallace 50, 1867; in *Ex parte* McCardle, 7 Wallace 506, 1869, the statute giving the Court jurisdiction was repealed by Congress after the McCardle case, involving the validity of the Reconstruction Act, had been argued.

[3] Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601, 1895.

[4] United States v. E. C. Knight Co., 158 U.S. 1, 1895.

[5] *In re* Debs, 156 U.S. 564, 1895.

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program aiming at national recovery. It undertook to bring within the range of varying degrees of federal control, industry, labor, agriculture, the railroads, the currency, the banking system, and investment securities, while it projected new and startling policies for the development and conservation of natural resources, debtor relief, charitable and work relief, and social security. We are not accustomed in this country to legislative programs. We have almost countless legislative acts, but they are frequently haphazard in origin and unrelated in policy. The New Deal program involved a massive and a simultaneous penetration of national power into new territory on a dozen fronts, and presented thereby an impressive challenge to our constitutional doctrines and traditions. The major issues presented sound very familiar when stated in abstract terms, but the concrete problems involved were of striking novelty and far-reaching importance. First, could the recovery program be brought within any reasonable construction of the powers delegated by the Constitution to Congress? For Congress must still hang its legislative program on some one or more of the "legislative pegs" found in that document. Secondly, assuming that Congress had employed powers delegated to it by the Constitution, had it violated any of the specific limitations, such as due process and just compensation, imposed upon national authority by the Bill of Rights? And finally, had Congress in setting up vast and powerful administrative machinery for the enforcement of the Recovery program unconstitutionally delegated to executive or administrative officers its own powers of legislation?

It is interesting to speculate upon the possible significance of the delay involved in getting the New Deal cases before the Supreme Court. The first decision was that in the "Hot Oil" case announced on January 7, 1935, more than eighteen months after the legislation had gone into effect. The other important decisions came still later. Now the Supreme Court can move with a good deal of celerity when there is reason for so doing. The Adamson Eight Hour Law went into effect on January 1, 1917, the case involving its validity was argued ten days thereafter, and a decision upholding it was handed down in a little more than two months.[6] Had the major constitutional problems involved in the New Deal been presented to the Supreme Court in the fall of 1933 instead of the fall of 1934, would the Court have viewed those problems in sub-

[6] Wilson v. New, 243 U.S. 332, 1917.

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stantially the same light as it did a year and a half later? All we can know is that the New Deal program went into effect under conditions of national psychology akin to those of war. A despairing and bewildered country accepted the new legislation at its face value, or the value placed on it by the Administration, politics and opposition were "adjourned," and most of those who discussed the constitutionality of what was being done were inclined to feel that in a great national crisis the measures necessary to national self-preservation must surely fall within the proper ranges of governmental authority. The Court, however, was spared the necessity of determining the validity of the Recovery program in the tense atmosphere of national crisis. After the lapse of two years, the depression showed some signs of abatement, political opposition had revived, and a public opinion which had somewhat uncritically accepted the New Deal as the only shelter in time of storm had begun to show itself in numerous quarters decidedly skeptical. The Court, therefore, was placed in the position of examining the recovery measures in 1935 in the much more normal atmosphere of two-sided debate.

Of outstanding interest has been the acquiescence of the country in the decisions of the Court, the acceptance of the vast authority exercised, and the almost complete absence of criticism of the Court as an institution or the individual justices thereof. With few exceptions, those dissatisfied with the earlier New Deal decisions have not attacked the Court but have contented themselves with proposing that the legislative policies outlawed be sanctioned by new constitutional amendments.

A. QUESTIONS OF NATIONAL POWER

I. DELEGATION OF LEGISLATIVE POWER TO THE EXECUTIVE

It is one of the accepted corollaries of our basic constitutional doctrine of the separation of powers that Congress may not delegate its legislative power to other branches of the government. Article 1, sec. 1, clause 1, states that "all legislative powers herein granted shall be vested in a Congress of the United States," and this means that they may not be farmed out to the President or to the courts or to any one else. The conditions under which governments function in modern society preclude, however, the possibility of embodying in the words of a statute every rule, regulation, and form of procedure by which legislative policies are to be carried

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into effect. Congress must rely upon the President and his subordinates for aid in making legislative policies concrete and applicable to specific and frequently varying situations. The Supreme Court has often recognized this and has permitted Congress to turn over to executive and administrative officers the job of "filling in the details" of legislative policy by the issuance of rules or ordinances, as in the elaborate rules issued by the Civil Service Commission, and also to invoke or modify the application of legislative policies to changing factual situations, as in the flexible tariff acts where the President adjusts tariff rates to changing differentials in costs of production here and abroad. So generous has the Court been in sanctioning these two varieties of "executive legislation" that careful students of constitutional law had begun to suggest that the doctrine that legislative power may not be delegated by Congress was never likely to be enforced judicially, and that Congress, as Professor Corwin suggested, might delegate legislative power when "it was necessary and proper to do so."[7] No statute prior to 1935 had been held void as a violation of this rule.

In Panama Refining Company v. Ryan (the "Hot Oil" cases),[8] however, the Supreme Court, in a sharply-worded opinion by Chief Justice Hughes, decided that legislative power had been unconstitutionally delegated to the President by the provisions of the National Industrial Recovery Act dealing with oil regulation. Section 9c of the act provided: "The President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any state law or valid regulation or order prescribed thereunder, by any board, commission, officer, or other duly authorized agency of a state." Violations of such presidential orders were made punishable by $1,000 fine, six months' imprisonment, or both.

The President issued an executive order prohibiting the shipment in interstate or foreign commerce of "hot oil." This was followed by another order designating the Secretary of the Interior as the President's agent to set up administrative machinery and issue detailed regulations. The Secretary accordingly issued an

[7] E. S. Corwin, *The Twilight of the Supreme Court*, p. 145.
[8] 293 U.S. 388, 1935.

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order requiring the federal registration of all oil producers and the filing by them of monthly sworn statements that they had not produced or withdrawn from storage petroleum or petroleum products in excess of the amount permitted by state authority. A similar order exacted the same requirements of purchasers, shippers, and refiners of oil. A month later, the President promulgated the Petroleum Code under authority of the N.I.R.A. By this order, the production of oil was to be kept within the limits of consumer demands by a system of federal allocations to the states, which might in turn allot production to individual producers by a system of quotas. Production in excess of such quotas constituted an unfair trade practice in violation of the code. As the result of a most extraordinary executive *faux pas*, which almost certainly increased the Court's irritation with this complicated maze of "executive legislation," the government found itself unable to base its prosecution of the Panama Refining Company upon the company's admitted violations of the provisions of the Petroleum Code.[9] It was forced to rely upon the violations of the earlier orders of the Secretary of the Interior issued under the grant to the President in Section 9c of the N.I.R.A. of the power to prohibit the foreign and interstate shipment of "hot oil."

The single constitutional issue raised was whether there had been an invalid delegation of legislative power to the President. This in turn depended upon whether Congress, in making the delegation, "has declared a policy with respect to that subject; whether the Congress has set up a standard for the President's action; whether the Congress has required any finding by the President in

[9] The Code for the Petroleum Industry was promulgated on August 19, 1933. On September 13, 1933, the President issued an executive order modifying certain of its provisions. In this order, perhaps the most vital paragraph of the Code, that prohibiting production of oil in excess of state quotas, was inadvertently omitted, and not restored until September 25, 1933, when the omission seems to have been first discovered. The acts in violation of the Code charged against the Panama Refining Company were committed during this two-week period, although the fact that there were no effective code provisions in existence was unknown to the government counsel, the defendant, or the court when the action was tried in the lower court. Interestingly enough, in Locke v. United States, 75 Fed. Rep. (2d) 157, 1935, an injunction issued by the lower court restraining Locke from violating the non-existent provision of the Code was violated and Locke was cited for contempt. The Circuit Court of Appeals, in full knowledge of all the facts, sustained the judgment for contempt, and the Supreme Court refused to grant *certiorari* to review the case. Thus one may be in contempt for disobeying a court order restraining one from violating a law which does not exist.

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the exercise of the authority to enact the prohibition." An examination of Section 9c of the N.I.R.A. discloses, in the judgment of the Court, no such policy or standard for the President's guidance—no limitation upon his discretion. He is left entirely free to prohibit the foreign or interstate shipment of "hot oil," or not to prohibit it; and he, and he alone, may determine the circumstances or conditions under which such prohibition shall be set up or not set up. Nor is he required to make or announce any findings of facts upon which his determinations rest. The Court's conclusion is that, taken by itself, Section 9c does unconstitutionally delegate legislative power.

It was urged upon the Court, however, that Section 9 should not be regarded as an isolated delegation of power, but should be viewed as merely one provision of the entire National Industrial Recovery Act and that the delegation of power to the President embodied in this specific section was governed and limited by the standards and declarations of policy found in Title I of the N.I.R.A. and expressing the broad national purposes which the whole statute was intended to accomplish.[10] But here again the Court finds nothing which clearly tells the President if, when, how, or why he may prohibit shipments of "hot oil." None of the provisions of the act prescribes "any limitation upon the grant of authority in Section 9c." There follows an examination of the more important cases in which the charge has been made, and rejected, that legislative power had been delegated to the President. The list includes Field v. Clark,[11] Buttfield v. Stranahan,[12] and the more recent cases of Hampton & Co. v. United States,[13] and Federal Radio Commission v. Nelson Bros. Bond & Mortgage Co.[14] The Court declares that

[10] This part of Title I of the Act reads: "It is hereby declared to be the policy of Congress to remove obstructions to the free flow of interstate commerce and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of coöperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources."

[11] 143 U.S. 649, 1892.

[12] 192 U.S. 470, 1904.

[13] 276 U.S. 394, 1928.

[14] 289 U.S. 266, 1933.

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in all these cases it has "recognized that there are limits of delegation which there is no constitutional authority to transcend." It continues: "If Sec. 9c were held valid, it would be idle to pretend that anything would be left of limitations upon the power of the Congress to delegate its law-making function. The reasoning of the many decisions we have reviewed would be made vacuous and their distinctions nugatory. Instead of performing its law-making function, the Congress could at will, and as to such subjects as it chooses, transfer that function to the President or to an administrative body. The question is not of the intrinsic importance of the particular statute before us, but of the constitutional processes of legislation which are an essential part of our system of government."

And finally Chief Justice Hughes insists that even "if it could be said that from the four corners of the statute any possible inference could be drawn of particular circumstances or conditions which were to govern the exercise of the authority conferred, the President could not act validly without having regard to those circumstances and conditions." His order of prohibition would need to be accompanied by a statement of findings of fact showing that he had acted within the limitations of policy and circumstances set up in the statute to guide his action. This he made no effort whatever to do.

In an elaborate opinion, Mr. Justice Cardozo dissented on a point of difference which he describes as "narrow." Admitting that the statute delegating power to the President must set up a reasonably clear standard whereby the President's discretion is governed, he finds such standard in the broad statement of the purposes of the National Industrial Recovery Act found in its first title. Those purposes include: "to eliminate unfair competitive practices," "to conserve natural resources," and "to promote the fullest possible utilization of the present productive capacities of industries," and "except as may be temporarily required," to "avoid undue restriction of production." The President's policies and regulations with respect to "hot oil" must fall within these general limits. "Discretion is not unconfined and vagrant. It is canalized within banks that keep it from overflowing." Nor does Mr. Justice Cardozo agree that the President's orders under the act must be accompanied by findings of fact showing compliance with the statutory policies set forth.

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The Court's decision in the case of Schechter v. United States,[15] invalidating the National Industrial Recovery Act in its establishment of codes of fair competition was grounded in part on the unconstitutional delegation thereby of legislative power to the President. It seems more convenient, however, to discuss that case as a unit in the paragraphs that follow.

II. THE POWERS OF CONGRESS—SCOPE AND CONSTRUCTION

1. *The Commerce Power*

(1) *The "N.R.A." Decision*

Perhaps the most spectacular decision handed down at the 1934 term of Court was that in Schechter v. United States[16] invalidating in its general operation the National Industrial Recovery Act and the famous "codes of fair competition" set up under its authority. The N.I.R.A. was perhaps the heart and core of the Roosevelt recovery program. Its general features may be made clear by stating that it undertook an ambitious program for the rehabilitation of American industry. It aimed—see the elaborate statement of policy set forth in its first title[17]—to increase the volume of business and improve working conditions by raising wages, reducing hours of work, and stamping out child labor. It sought, further, to drive out unfair and destructive competitive practices, to conserve certain basic natural resources, and to relieve unemployment. To achieve these ends, "codes of fair competition" were to be set up in the various industries. These codes were to be drawn by representatives of the industries working in coöperation with government officials, but they were in each case to receive the approval of the President, who was charged by the statute with the obligation of seeing that certain standards with respect to working conditions and freedom from monopoly were observed. If any industry found itself unable by this procedure to formulate its own code, the President might impose a code upon it. Once adopted, these codes became mandatory upon all those engaged in the industry, whether they had participated in their formation or not, and code provisions were made enforceable by both criminal and civil process. Under these provisions, codes were established in more than 700 industries by the spring of 1935.

The Department of Justice elected to make its defense of the

[15] 295 U.S. 495, 1935. [16] 295 U.S. 495, 1935. [17] See note 10, *supra*.

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constitutionality of the N.I.R.A. in a test case arising under the Live Poultry Code, which had been approved by the President on April 13, 1934. This code was an elaborate document comprising eight articles entitled (1) purposes, (2) definitions, (3) hours, (4) wages, (5) general labor provisions, (6) administration, (7) trade practice provisions, (8) general. It was limited to the live poultry industry in and about the city of New York. Concretely, it regulated the hours of labor and wages of the industry, prohibited child labor, and recognized the right of collective bargaining. It fixed, on the basis of weekly sales, the minimum number of employees to be used in poultry slaughter-houses. It set up machinery for code enforcement and for the collection of fees to cover the cost of administration. It defined and prohibited a long list of "unfair trade practices" peculiar to the poultry industry and required the keeping and filing of elaborate reports upon the conduct of business, prices, sales, etc. The Schechter brothers and the corporations through which they do business operate wholesale poultry slaughter-house markets in Brooklyn. They purchase live poultry in New York and elsewhere for slaughter and resale. Poultry is sold by them to local butchers, who sell to consumers. The Schechters sell no poultry in interstate commerce. They were indicted on eighteen counts for violations of the Live Poultry Code. These charged breaches of the minimum wage, maximum hour, and trade practice provisions. The latter charges, ten in number, were that the defendants permitted customers to make "selections of individual chickens taken from particular coops and half-coops," that they had sold an "unfit chicken" (hence the name sometimes applied to the Schechter case—the "Sick Chicken" case), that they had sold chickens not duly inspected, had failed to file the required reports, and had sold to unlicensed dealers.

Speaking for a unanimous Court, Chief Justice Hughes held the National Industrial Recovery Act void, together with the codes set up under its authority. He disposes at the outset of the suggestion that the great national crisis confronting Congress provided constitutional support which might otherwise have been lacking for the statute and the codes. The powers of the national government are limited by the constitutional grants. "Assertions of extra-constitutional authority were anticipated and precluded by the explicit terms of the Tenth Amendment." The first major ground of the Court's decision is then stated—the delegation of

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legislative power. While referring back to the general statement of principles on this point in the case of Panama Refining Co. v. Ryan,[18] the Chief Justice states that the problem is here presented in a different form. In the statute authorizing the "hot oil" regulations, the subject of the regulation was defined—transportation of oil. In the N.I.R.A., there is no clear or adequate definition of the "subject to which the codes are to be addressed." They are called "codes of fair competition," but a careful scrutiny of that term as used in the statute indicates that it has no clear and well-defined meaning which would serve to limit executive discretion. It is broad and vague in its implications, in sharp contrast to the term "unfair methods of competition" used in the Federal Trade Commission Act. Nor is the President's code-making authority limited in any effective way by the declaration of policy contained in Title I of the N.I.R.A. It is true that his approval of a code is conditioned upon his finding that it "will tend to effectuate the policy of this title," but the policies so embraced cover the whole broad field of the rehabilitation of industry and commerce as well as the protection of laborers and consumers. Furthermore, he may impose code changes on his own authority when "in his discretion" he finds such modifications necessary "to effectuate the policy" of the act. This wide delegation is not substantially limited by the statutory restriction that the codes must not have the effect of suppressing or discriminating against small enterprises or permit monopolies or monopolistic practices. The opinion on this point ends as follows: "To summarize and conclude upon this point: §3 of the Recovery Act is without precedent. It supplies no standards for any trade, industry, or activity. It does not undertake to prescribe rules of conduct to be applied to particular states of fact determined by appropriate administrative procedure. Instead of prescribing rules of conduct, it authorizes the making of codes to prescribe them. For that legislative undertaking, §3 sets up no standards, aside from the statement of the general aims of rehabilitation, correction, and expansion described in §1. In view of the scope of that broad declaration, and the nature of the few restrictions that are imposed, the discretion of the President in approving or prescribing codes, and thus enacting laws for the government of trade and industry throughout the country, is virtually

[18] 293 U.S. 388, 1935.

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unfettered. We think that the code-making authority thus conferred is an unconstitutional delegation of legislative power."

The second ground of the Court's decision is that the Live Poultry Code regulates transactions which are local in character and form no part of interstate commerce. As such, it extends federal authority beyond the limits of delegated power. Since the code was plainly within the provisions of the N.I.R.A., the same disability attaches, by inference, to the statute itself. The Court attempts here no technical analysis of the line between interstate and intrastate commerce. The government's argument in support of the code and the act was grounded on the general principle that federal power may properly extend to local transactions which are closely related to or affect interstate commerce. Many decisions of the Court, of which the Shreveport case[19] is a notable example, supported this view. The unfair trade practices, depressed wages, and overlong hours of labor in local industries and businesses transmitted their deleterious effects to the whole stream of interstate commerce. The interstate poultry business felt instantly the effects of the objectionable practices going on in the Schechter markets. Consequently, federal authority could properly correct these local ills as a means of protecting interstate commerce. This all has great plausibility. The Court's answer, however, is succinct and probably adequate. "In determining how far the federal government may go in controlling interstate transactions upon the ground that they 'affect' interstate commerce, there is a necessary and well-established distinction between direct and indirect effects. The precise line can be drawn only as individual cases arise, but the distinction is clear in principle," and further, "if the commerce clause were construed to reach all enterprises and transactions which could be said to have an indirect effect upon interstate commerce, the federal authority would embrace practically all the activities of the people and the authority of the state over its domestic concerns would exist only by sufferance of the federal government. Indeed, on such a theory, even the development of the state's commercial facilities would be subject to federal control." Applying this principle, the Court concludes that the code regulations of wages, hours, and trade practices in the poultry industry in New York City had only an "indirect" effect upon interstate commerce, and therefore fell outside the range of federal

[19] Houston, E. & W. Texas Ry. Co. v. United States, 234 U.S. 342, 1914.

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power under the commerce clause. It is obvious that this constitutional defect is basic and inescapable. The N.R.A. system might possibly have been salvaged by a more careful and precise formulation of the powers granted to the President, had its only constitutional weakness been its improper delegation of legislative power. There is no legislative tinkering, however, by which a statute lying outside the proper scope of the powers delegated to Congress can be given validity. Such a statute must be radically changed or the constitution must be amended to sanction it.

Mr. Justice Cardozo filed a brief concurring opinion in which he emphasizes the distinction between the delegation of power to formulate codes of fair competition and the delegation of power involved in the "Hot Oil" cases. In the present case, he finds that the President has been given a "roving commission to inquire into evils and upon discovery to correct them." He agrees, therefore, with the majority that legislative power is invalidly delegated.

(2) *The Railroad Pension Act*

Another commerce power case of first-rate importance is that of Railroad Retirement Board v. Alton R. Co.,[20] invalidating the Railroad Pension Act of June 27, 1934. This was a complicated statute seeking to provide old-age security for railroad employees. Its main provisions may be stated briefly. It set up a retirement fund in the Treasury to be administered by a federal board. This fund was to be made up of compulsory payments made by railroad employees and by the railroads. The employees paid a percentage of their wages; the railroad paid twice the total amount paid by its employees. Those eligible to the retirement benefits included not only present and future employees, but "those who within one year prior to the date of enactment were in the service of any carrier." These three groups are to receive the annuities (a) at the age of 65 whether then in the service of a carrier or not (by mutual agreement, service may continue until the age of 70), (b) at any time between the ages of 51 and 65, at the employee's option, if he has served a total of 30 years, continuously or not, with one carrier or more. The annuities are payable annually. No specified length of service is required, but the benefits are proportionately reduced if the term of service is less than 30 years. If an employee dies, before or after retirement, his estate is repaid all

[20] 295 U.S. 330, 1935.

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he has paid in, with interest, less any annuity payments he has received.

Speaking for a majority of five on the Court, Mr. Justice Roberts turns first to a series of questions arising under the due process clause of the Fifth Amendment. First, the retroactive extension of annuities to former employees (those in service within a year of the date of the act) is wholly arbitrary. There are about 146,000 in this group, which includes persons lawfully discharged for cause, those who voluntarily quit to enter other occupations, as well as many temporarily on furlough due to depression conditions. Secondly, there is denial of due process in the provision that any one employed by any carrier may at 65 include as the basis of his annuity any service (possibly long since terminated) rendered to any carrier prior to the date of the act. Third, it is held arbitrary to extend annuity benefits at age 65 to those who may at any time be in carrier employ but who leave that service. Thus a man might work for a carrier from age 20 to age 30, leave railroad employment never to return, but still be entitled at 65 to an annuity based on ten years' service. Fourth, the retirement on annuity at age 51 after 30 years' service is found objectionable as robbing carriers of benefits of experience. Fifth, due process is denied by the uniform treatment under the act of all railroads, regardless of numbers of employees in different age groups and regardless of differences in financial condition. It is here noted that the employees of now insolvent, or even defunct, roads are thus made a present and future liability on the existing railroads. Sixth, the carriers' property is taken by requiring repayment with interest from the Retirement Fund to estates of deceased employees of contributions made by them. Finally, the enormous cost of the plan under which the sums paid by the carriers will have amounted in ten years to $2,943,966,000, while not an independent ground for holding the act void, indicates the crushing cost resulting from provisions found void on other grounds.

The second ground of the Court's decision is that the act is not in purpose or effect a regulation of interstate commerce. The congressional intention to promote a desirable social objective may be freely admitted, but the act can be sustained as an exercise of the power to regulate commerce only by showing that it promotes the efficiency or safety of interstate transportation. In the judgment of the majority, it does neither. The government's contention

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that the retirement of superannuated workers increases safety and efficiency is met with evidence tending to show that as the degree of superannuation has increased the number of railroad accidents has declined. The argument that a sense of financial security will improve employee morale and thus promote efficiency is rejected on the ground that it proves too much. "Is the fostering of a contented mind on the part of any employee by legislation of this type in any just sense a regulation of interstate transportation?" If so, all the other methods and policies promoting such contentment would seem to lie equally within the range of congressional power. There is absent in this legislation the direct relationship to carrier efficiency and safety which provides the constitutional basis for the employers' liability statutes.[21] The Court concludes: "We feel bound to hold that the pension plan thus imposed is in no proper sense a regulation of the activity of interstate transportation. It is an attempt for social ends to impose by sheer fiat non-contractual incidents upon the relation of employer and employee, not as a rule or regulation of commerce and transportation between the states, but as a mean of assuring a particular class of employees against old age dependency. This is neither a necessary nor an appropriate rule or regulation affecting the due fulfillment of the railroads' duty to serve the public in interstate transportation."

A vigorous dissenting opinion was written by Chief Justice Hughes, with whom Justices Brandeis, Stone, and Cardozo concurred. The attack is directed in the main against the Court's sweeping denial to Congress of any power to pass any compulsory pension act for railroad employees: "This is a conclusion of such serious and far-reaching importance that it overshadows all other questions raised by the act" and "places an unwarranted limitation upon the commerce clause of the Constitution." In a careful and convincing argument, the Chief Justice shows that such a pension plan—as evidenced by the growth and success of voluntary pension systems—does have an intimate relation to the efficiency, safety, and morale of interstate transportation. While agreeing that the retroactive operation of the act denies due process, the dissenting opinion rejects the other due process objections, and insists that even if they were valid objections, they could be eliminated or corrected without invalidating the basic provisions and policy of the act.[22]

[21] Second Employers' Liability Cases, 223 U.S. 1, 1912. [22] (See next page.)

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2. *Currency Power—the Gold Clause Cases*

A vital phase of the Recovery Program was the new monetary policy of the Administration. By regulating the value of money, it was believed that commodity prices could be raised and aid lent to the rehabilitation of industry and agriculture. This monetary policy unfolded itself in the following steps. The proclamation of the bank holiday on March 6, 1933, was accompanied by an order to the Secretary of the Treasury to pay out gold only under license. The Emergency Banking Act passed three days later authorized the President to forbid exports of gold and gold hoarding and to order the return of gold to the Treasury to be redeemed in currency. The President immediately ordered all gold and gold certificates returned to the Treasury and forbade all gold transactions in foreign exchange. In May, Section 43 of the Agricultural Adjustment Act authorized the devaluation of the dollar to not more than fifty per cent of its value. On June 5, 1933, Congress passed a joint resolution abolishing the gold clauses in contracts. After declaring that gold clauses obstruct the monetary policy of Congress, the resolution provides: "That every provision contained in or made with respect to any obligation which purports to give the obligee a right to require payment in gold or a particular kind of coin or currency, or in an amount in money of the United States measured thereby, is declared to be against public policy; and no such provision shall be contained in or made with respect to any obligation

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[22] In the fall of 1934, the Secretary of the Interior caused the commencement of work on the Parker Dam in the main stream of the Colorado River between Arizona and California. The work was to be done under a contract between the federal government and the Metropolitan Water District of Southern California under which the District paid the cost of the dam and was to receive half the power rights and certain rights of water diversion. Arizona attacked the validity of the whole proceeding as an invasion of her rights in the river, and the governor of the state ordered out the militia to prevent construction operations by the federal authorities. United States v. Arizona, 295 U.S. 174, 1935, is an original suit by the United States for an injunction to restrain state interference with the construction. A unanimous Court held that the building of the dam had not been properly authorized and refused to issue the injunction. An examination of the pertinent legislation shows that dams may be built in navigable rivers only after specific authorization by Congress following approval by the President and the Chief of Engineers. The government was unable to show any such authorization, and its effort to imply the same from collateral legislation was rejected. Thus Arizona, hopelessly defeated in her attempt to prevent the construction of Boulder Dam, 150 miles up the river, has won a temporary victory at least in this case. The Parker Dam can, of course, be legalized at any time by act of Congress.

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hereafter incurred. Every obligation, heretofore or hereafter incurred, whether or not any such provision is contained therein or made with respect thereto, shall be discharged upon payment, dollar for dollar, in any coin or currency which at the time of payment is legal tender for public or private debts. Any such provision contained in any law authorizing obligations to be issued by or under authority of the United States, is hereby repealed. . . ." Shortly thereafter, by legislation and executive order, the gold content of the dollar was fixed.

The Gold Clause Resolution raised two distinct and important constitutional questions. First, could Congress validly abrogate the gold clauses contained in existing private contracts? Second, could it abrogate the clauses in the government's own bonds and gold certificates by which payment in gold was guaranteed? The interests involved were of tremendous proportions. It was estimated that the private and governmental obligations containing gold clauses totaled about $100,000,000,000. With the dollar sharply devalued and gold at a premium, these obligations, should the gold clauses be held enforceable, would have to be met, if not in actual gold, by payments in currency amounting to $169,000,000,000. Such a result would profoundly affect the business and financial life of the nation. Three cases testing the validity of the Gold Clause Resolution as it affected (1) private gold clause obligations, (2) gold clause liberty bonds, and (3) gold certificates, were duly argued in the Supreme Court and the decisions awaited by the country with almost breathless interest. Twice during the period of suspense the Court, breaking all previous traditions, issued week-end press statements that it would hand down no decision in the Gold Clause cases on the following Mondays.

The constitutional power to abrogate the gold clauses in private obligations was upheld in Norman v. Baltimore and Ohio Railroad Company.[23] The suit was brought for the interest on one of the railroad's $1,000 bonds issued in 1930 and containing the proviso that payment of principal and interest "will be made . . . in gold coin of the United States of America of or equal to the standard of weight and fineness existing on February 1, 1930." The plaintiff demanded in payment of his interest coupon for $22.50 the gold value equivalent, or $38.10. The Company, relying upon the Gold Clause Resolution, refused payment of more than the face value

[23] 294 U.S. 240, 1935.

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of the coupon in currency. The opinion of the Chief Justice, speaking for five members of the Court, may be summarized as follows. First, the nature of the gold clauses is examined and they are held to be contracts for the payment of money and not for the delivery of gold as a commodity or as bullion. In this connection, the Court distinguishes the present case from the post-Civil War case of Bronson v. Rodes[24] in which a clause specifying payment in gold was held enforceable. Under the early legal tender legislation, the circulation of gold was in no way forbidden, both gold and legal tender notes constituted lawful money, and a contract requiring payment in one rather than the other was entirely valid. Second, there is a careful review of the nature and scope of the power of Congress over the currency. The basic doctrine of the Legal Tender cases[25] is reviewed with approval, and the more recent case of Ling Su Fan v. United States,[26] holding that important limitations grounded in public policy attach to the ownership of gold and silver by reason of its quality as legal tender and as a medium of exchange. Third, private contracts calling for payments in gold cannot stand in the way of the exercise by Congress of its paramount power to regulate the currency. "Contracts, however express, cannot fetter the constitutional authority of the Congress. Contracts may create rights of property, but when contracts deal with a subject-matter which lies within the control of the Congress, they have a congenital infirmity. Parties cannot remove their transactions from the reach of dominant constitutional power by making contracts about them." Fourth, the effect of the gold clauses upon the government's monetary policy is examined, and after careful review of the legislation and its purposes it is held that Congress might reasonably conclude that the abrogation of the gold clauses was necessary for the successful effectuation of those policies.

The case of Perry v. United States[27] raised the question of the constitutionality of the abrogation of the gold clauses in liberty bonds. Perry owned a $10,000 liberty bond and upon its being called for redemption demanded either ten thousand dollars in gold or $16,931.25 in legal tender currency. Upon the refusal of the Treasury to pay him more than ten thousand legal tender dollars, he sued in the Court of Claims for the full amount of his claim.

[24] 7 Wallace 229, 1869.
[25] 12 Wallace 457, 1871.
[26] 218 U.S. 302, 1910.
[27] 294 U.S. 330, 1935.

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Chief Justice Hughes, speaking again for a divided Court, announced the decision that Congress could not validly abrogate its own gold clause contracts, but that the plaintiff had suffered no damage by reason of its having done so and could not, therefore, maintain his action. This anomalous result was reached by the following steps. First, there can be no doubt as to the meaning of the gold clause; it is exactly what it purports to be—a promise to pay in gold intended to protect the purchaser of the bond against loss due to possible depreciation of the currency. Second, the obligation which the government has entered into is binding and may not constitutionally be rescinded. The bonds are issued in the exercise of the delegated power to borrow money on the credit of the United States, and there is no power anywhere delegated to Congress to repudiate the bonds or impair the credit on which they are issued. The power to regulate the value of money does not extend to such repudiation of the national credit. The delegated powers of Congress must be construed as harmonious and not mutually destructive, and the power to borrow is not, therefore, to be undermined by the currency power. Furthermore, the Fourteenth Amendment declares in its fourth section that "the validity of the public debt of the United States authorized by law . . . shall not be questioned," and this applies to current bond issues as well as to those of the Civil War period. The abrogation of the gold clauses in government obligations is therefore unconstitutional. Third, the plaintiff, however, has suffered no actual damage and cannot, therefore, maintain his suit against the United States. Under the jurisdiction of the Court of Claims, he may recover for actual losses only. He is not entitled to be enriched. He has not "lost" the difference of 69 cents on the dollar which represents the value of his bond if paid in gold. The law does not permit him to enjoy that 69 per cent profit. If the Treasury paid him $10,000 in gold for his bond, he would be compelled by the anti-hoarding legislation and the executive orders issued under it to bring the gold at once to the Treasury in return for its face value in currency. He could not lawfully circulate it or sell it in the domestic markets, nor could he lawfully export it and realize on its value abroad. His only possible claim of loss would be that the purchasing value of the currency dollars received is less than that of the dollars he loaned. This he does not claim and could not show. Consequently,

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he has no judicial redress against the government's unconstitutional act.

The case of Nortz v. United States[28] involved the abrogation of the gold clauses embodied in United States gold certificates which purported on their face and by acts of Congress to be redeemable in gold coin. Without discussing whether these certificates represented contract obligations which had been repudiated and upon which the plaintiff could sue, the Court found, as in the Perry case, that the plaintiff had suffered no actual loss and could not, therefore, bring an action in damages.

Mr. Justice Stone filed a concurring opinion in the Perry case. He agreed that Perry could not recover from the government as "loss" the increment of 69 cents in the value of the gold dollar which Congress by constitutional exercises of its power over the currency had made it impossible for him to realize. That being so, he believed that it was unnecessary and undesirable to discuss the broader question of the constitutional power of Congress to abrogate the gold clauses in its own obligations. He said: "It is unnecessary, and I think undesirable, for the Court to undertake to say that the obligation of the gold clause in government bonds is greater than in the bonds of private individuals, or that in some situation not described, and in some manner and in some measure undefined, it has imposed restrictions upon the future exercise of the power to regulate the currency. I am not persuaded that we should needlessly intimate any opinion which implies that the obligation may so operate, for example, as to interpose a serious obstacle to the adoption of measures for stabilization of the dollar, should Congress think it wise to accomplish that purpose by resumption of gold payments, in dollars of the present or any other gold content less than that specified in the gold clause and by the re-establishment of a free market for gold and its free exportation." He further objects to the Court's theory that the "sovereign power to borrow money on credit" may "preclude or impede the exercise of another sovereign power, i.e., to regulate the value of money."

The dissent of the four members of the minority from the decisions in all three cases was vigorous in the extreme and was dramatically presented in Court. Mr. Justice McReynolds (with whom Justices Van Devanter, Sutherland, and Butler concurred)

[28] 294 U.S. 317, 1935.

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laid aside his written opinion and spoke extemporaneously and with profound feeling. He concluded with the statement: "As for the Constitution, it does not seem too much to say that it is gone." The written dissent is eloquent in its denunciation of what is deemed the sacrifice of national good faith. It opens with the statement that "the enactments here challenged will bring about confiscation of property rights and repudiation of national obligations." It closes with the observation: "Loss of reputation for honorable dealing will bring us unending humiliation; the impending legal and moral chaos is appalling." The essential position of the dissentients is that the gold clauses in both private and government obligations are valid contracts which create property rights which may not be destroyed by legislation. The gold clause repeal is not an exercise of any delegated federal power, but is an act of arbitrary usurpation. The legislation is lacking in due process and amounts to a taking of private property without just compensation.

3. *Taxation*

In Helvering v. Powers,[29] a familiar doctrine in the field of intergovernmental taxation is extended to a new factual situation. The case holds that the members of the Board of Trustees of the Boston Elevated Railway Company are not immune from the payment of a federal income tax on their official salaries on the ground that they are state officers. There is no doubt as to their status as state officers, as they are appointed by the governor, are paid a regular salary, and perform duties imposed by statute. The ground of the decision is that the "state cannot withdraw sources of revenue from the federal taxing power by engaging in businesses which constitute a departure from usual governmental functions and to which, by reason of their nature, the federal taxing power would normally extend." Under this doctrine, the South Carolina liquor dispensary was required to pay excise taxes to the federal government, and more recently the same rule was applied to the state liquor monopolies set up since the repeal of prohibition. "We see no reason for putting the operation of a street railway in a different category from the sale of liquor," said the Court, and it was stated that the result would have been the same if the street railway had been operated directly by the state or city instead of by a private corporation under state control.

[29] 293 U.S. 214, 1934.

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The territory of Puerto Rico may not, without special congressional consent, lay a tax on the capital of a national bank established therein. The bank, as is well established, is an agency of the federal government. While a state may not tax such an instrumentality of the federal government without federal consent, because of the dual nature of the federal system, a territory may not do so "because the dependency may not tax its sovereign." No consent had been given to levy the tax here assessed, and it is therefore void. This is the case of Domenech v. National City Bank.[30]

4. *Power to Punish for Contempt*

The case of Jurney v. MacCracken[31] provides further judicial buttressing for the power of the houses of Congress to punish for contempt. During the course of a Senate committee investigation of ocean and air mail contracts, MacCracken, an attorney for certain companies holding these contracts, was ordered to produce as evidence all books of account and papers relating to such contracts. After some delay, this subpœna *duces tecum* was in part complied with, but it also transpired that in the interval MacCracken had permitted the destruction of some of the papers. Upon being cited for contempt by the Senate, he attacked the power of that body to punish him. His chief contention was that the power to punish for contempt may not be used against a private citizen solely for purposes of punishment. It may be used as a means of removing obstructions to the legislative processes, but once the obstructions have been removed, or it appears that their removal is impossible, the power ceases. Thus there is no power to punish him for the destruction of the subpœnaed papers, since the citation for contempt cannot then aid the legislative process by restoring the papers. The Court rejected this contention, holding that "where the offending act was of a nature to obstruct the legislative process, the fact that the obstruction has since been removed, or that its removal has become impossible, is without legal significance." Nor is there force in the contention that the power of either house of Congress to punish for contempt is destroyed or diminished by the enactment of the statute of 1857 making refusal to testify or produce papers a misdemeanor. The statute supplements, but does not replace, the power to punish for

[30] 294 U.S. 199, 1935.

[31] 294 U.S. 125, 1935.

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contempt. In fact, one may validly be punished by both processes for the same act. Nor did MacCracken's later efforts to purge himself of contempt have any bearing upon the constitutional power of the Senate to proceed against him. His guilt and the question whether he deserved punishment in the light of his later efforts to supply the evidence wanted were questions for the Senate and not the Court.

5. *Constitutional Immunities of Members of Congress*

Admiral Samuel T. Ansell brought in the supreme court of the District of Columbia an action for libel against Senator Huey P. Long. The summons was issued on March 27, 1933, and served on the defendant on April 3. Congress had been convened on March 9, and Senator Long was in attendance upon its sessions. He claimed that the summons and service were wholly void because forbidden by Article I, sec. 6, clause 1, of the Constitution, which provides that senators and representatives "shall in all cases except treason, felony, and breach of the peace be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same." Senator Long contended that this clause confers immunity in civil cases, not only from arrest, but also from service of process. In Long v. Ansell,[32] the Court rejects this contention. The clause does not so read; neither house of Congress has ever claimed such immunity for its members; in numerous cases in the lower federal courts, courts of the District, and state courts construing similar state constitutional provisions, the clause has been held to extend exemption from arrest alone. This conclusion is further confirmed in early English and American practice.

III. EXECUTIVE POWER—PRESIDENT'S POWER OF REMOVAL

The case of Rathbun v. United States[33] accomplishes the highly desirable result of protecting the members of the great independent federal commissions against "political" removals by the President. Such removals may be made only for the causes specified in the statute creating the office. This ruling is of interest not only because of its salutary practical consequences, but also because it expressly overrules a dictum to the contrary in Chief Justice Taft's

[32] 293 U.S. 76, 1934.

[33] 295 U.S. 602, 1935. Also cited as Humphrey's Executor v. United States.

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elaborate opinion in Myers v. United States[34] decided in 1926. The present case arose as follows. William E. Humphrey was nominated by President Hoover on December 10, 1931, to succeed himself as a member of the Federal Trade Commission for the statutory term of seven years, expiring September 25, 1938. The nomination was duly confirmed by the Senate, and he entered upon his duties. On July 25, 1933, President Roosevelt asked for Humphrey's resignation on the ground "that the aims and purposes of the Administration with respect to the work of the Commission can be carried out effectively with personnel of my own selection." At the same time, the President disclaimed any reflection upon Humphrey personally or upon his services. After some delay and correspondence, the President wrote on August 31, 1933, expressing the hope that the resignation would be forthcoming. He said: "You will, I know, realize that your mind and my mind do not go along together on either the policies or the administering of the Federal Trade Commission, and, frankly, I think it best for the people of this country that I should have a full confidence." The refusal of the commissioner to resign was followed by his removal by the President on October 7, 1933. He never acquiesced in the removal, but insisted that he was still a member of the Commission. He died on February 14, 1934, and the present action was brought by Rathbun, his executor, in the Court of Claims to recover the salary for the period from the date of his removal to the date of his death. The Court of Claims certified to the Supreme Court the basic questions involved, and the Supreme Court decided that the removal had been unlawfully made. The first of these questions was whether Congress, in passing the Federal Trade Commission Act, had intended to limit the power of the President to remove members of the Commission. The statute provides that the commissioners shall continue in office for the specified term, "any commissioner being subject to removal by the President for inefficiency, neglect of duty, or malfeasance in office." It is apparent from the statute that Congress intended the Commission to be non-partisan, to act with impartiality in the performance of duties "neither political nor executive, but predominantly quasi-legislative." This conclusion is supported by the legislative debates when the act was passed. The Court concludes, therefore, that Congress intended to limit the President's power to remove commissioners to the causes

[34] 272 U.S. 52, 1926.

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enumerated, none of which was alleged to exist in the case of Humphrey.

The second and basic question was whether Congress could constitutionally limit the executive power of removal in this way. The Myers case had denied to Congress any authority to interfere with or control the President's power to remove an executive officer, to wit, a postmaster, and Chief Justice Taft had gratuitously announced that the same rule governed presidential removals from the commissions performing quasi-judicial or quasi-legislative functions. The Court, however, now rejects this latter view. The President's illimitable power of removal, based upon the inherent nature of executive power granted in Article II, exists with respect to officers performing essentially executive functions, and to no others. The doctrine of the separation of powers, which supports presidential removal of executive officers, with equal force and cogency precludes a similar illimitable power in the President to remove officers whose duties are not "executive" in character. "The sound application of a principle that makes one master in his own house precludes him from imposing his control in the house of another who is master there." The members of the Federal Trade Commission are not "executive" officers, as postmasters are. They exercise "no part of the executive power vested by the Constitution in the President." The Commission is rather an administrative body created to carry into effect legislative policies embodied in the act, in accordance with legislative standards therein set up. Congress may therefore properly stipulate the conditions under which the members may be removed, and the President is bound by those conditions.

IV. JUDICIAL POWER

The original jurisdiction of the Supreme Court in cases "in which a state shall be a party" includes cases brought by the United States against a state, but only when the case presents a justiciable controversy. No such justiciable controversy is presented by the federal government's suit for an injunction to restrain the state of West Virginia from licensing a corporation to erect a dam on a stream claimed by the Federal Power Commission to be navigable and by the state to be non-navigable. The corporation itself can, of course, be enjoined in a federal district court from any unauthorized obstructions of navigable streams. But the

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state's assertions of authority, and its bare permit to the corporation, in the absence of any actual or imminent interference with federal rights, does not present a "case" within the range of the judicial power of the United States. "The sovereign rights of the United States . . . are not invaded or even threatened by mere assertions." This is the case of United States v. West Virginia.[35]

The case of Detroit Trust Co. v. Steamer "Thomas Barlum"[36] upholds a very striking enlargement of the admiralty and maritime jurisdiction of the federal courts by act of Congress. The Constitution, in Article III, extends judicial power "to all cases of admiralty and maritime jurisdiction." Under the "necessary and proper" clause, Congress may alter and expand the concrete content of that jurisdiction as long as it acts in so doing within "a sphere restricted by the concept of the admiralty and maritime jurisdiction." It is by no means limited, however, to the cases of admiralty and maritime jurisdiction in England when the Constitution was adopted. By the Ship Mortgage Act of 1920, federal admiralty courts were given jurisdiction over mortgages on ships, a jurisdiction not previously enjoyed, and in the present case this is held to extend to ship mortgages securing loans raised for wholly non-maritime purposes. This is held to be a proper exercise by Congress of its "wide discretion as to the appropriate development of the maritime law of the country."[37]

V. BILL OF RIGHTS

1. *Federal Bankruptcy Legislation under the Fifth Amendment—The Frazier-Lemke Farm Mortgage Act*

The Frazier-Lemke amendment to the Bankruptcy Act was passed on June 28, 1934. It undertook to extend relief to farmers faced with foreclosure of mortgages on their farms. It was an emergency measure seeking to tide farm mortgage debtors along until their economic status could be improved by other measures and influences promoting recovery. Previous legislation had provided for the refinancing of farm mortgages by aid of federal credit,

[35] 295 U.S. 463, 1935. [36] 293 U.S. 21, 1934.

[37] In Gillis v. California, 293 U.S. 62, 1934, it is held that state laws requiring those selling gasoline in the state to take out licenses and provide sureties are applicable to oil companies being operated by receivers appointed by the federal courts. Congress has by statute provided that receivers shall operate in accordance with valid state laws, and there is no improper invasion of judicial power involved in subjecting the receivers to the regulations here involved.

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and Section 75 of the Bankruptcy Act permitted farm mortgage debtors to effect a composition of their debts with the consent of a specified proportion of the creditors. The Frazier-Lemke Act extended much more drastic measures of relief. It provided that a farmer who could not effect a composition of his indebtedness, as just mentioned, could be adjudged a bankrupt. As such, he enjoyed two options with respect to the property. First, if the mortgagee (creditor) assented, he might purchase the property at its then appraised value and secure both title and possession by agreeing to make deferred payments as follows: $2\frac{1}{2}$ per cent within two years; $2\frac{1}{2}$ per cent within three years; 5 per cent within four years; 5 per cent within five years; the balance within six years. All deferred payments carried interest at one per cent per annum. Second, if the mortgagee rejected this purchase scheme, the bankrupt might require the bankruptcy court to stay all proceedings for five years, providing the debtor paid an annual reasonable rental, to be distributed to the creditors. The debtor retained possession during the five-year period. At the end of the period, or before, the debtor might have the property appraised and might secure full title and discharge by paying into the court the appraisal price. The act applied only to debts existing at the time when the measure became effective.

The Radfords owned an $18,000 farm, mortgaged for $9,000. They declined to refinance the mortgage, were unable to effect a composition, and sought relief under the new statute. A unanimous Court, speaking through Mr. Justice Brandeis, held the act unconstitutional in the case of Louisville Joint Stock Bank Co. v. Radford.[38] In the first place, the Court declined to rule on the bank's contention that the Frazier-Lemke Act violated the Tenth Amendment because it did not properly relate to the delegated power over bankruptcy. Second, the statute violates the Fifth Amendment by arbitrarily taking private property without just compensation. The operation and effect of the statute is closely examined and compared with other acts dealing with bankruptcy. Emphasis is placed on the fact that the mortgage creditor is deprived of title to and possession of the property and the right to sell it for the satisfaction of the debt, that during the period of delay he receives an abnormally low interest rate, and that, at the option of the debtor, he must accept in satisfaction of the debt a

[38] 295 U.S. 555, 1935.

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sum fixed by subsequent appraisal, perhaps much lower than the original amount of the mortgage. The restrictions of the creditor's rights are vastly more drastic than those in the Minnesota Mortgage Moratorium Act sustained at the last term in Home Building & Loan Association v. Blaisdell.[39] The depressed condition of the agricultural industry, and the emergency conditions confronting farm mortgagors, provide no justification for the confiscation of private property.

In Continental Illinois National Bank & Trust Co. v. C. R. I. & P. R. Co.,[40] Section 77 of the Bankruptcy Act, providing for the reorganization of insolvent railroad corporations, is held constitutional. Prior to that enactment, March 3, 1933, railroads had been excluded from the operation of the Bankruptcy Act, "probably because such corporations could not be liquidated in the ordinary way or by a distribution of assets." Under the new provisions, a railroad corporation "unable to meet its debts as they mature" may petition the federal district court for the right to submit a plan of reorganization affecting the rights of its creditors. This plan must receive the approval of the Interstate Commerce Commission after public hearings, and must be accepted in writing on behalf of two-thirds of each class of creditors and stockholders. The plan confirmed by the court shall then become binding upon all creditors and stockholders. This is a proper exercise by Congress of its power over bankruptcy, and the district court in the present case was upheld in issuing an injunction restraining the creditors of the Rock Island Railroad from selling the collateral by which loans to the road were secured. Such sale would impede and embarrass the effectuation of a reorganization under Section 77 for which the railroad had petitioned.[41]

B. QUESTIONS OF STATE POWER

I. FOURTEENTH AMENDMENT

1. *Due Process of Law*

(1) *State Police Power and Due Process*

Of the cases raising the due process issue with respect to exercises of the state police power, there are none of new or startling sig-

[39] 290 U.S. 398, 1934. For comment, see this REVIEW, vol. 29, p. 54.

[40] 294 U.S. 648, 1935.

[41] In Dimick v. Schiedt, 293 U.S. 474, 1935, it is held that the Seventh Amendment guaranteeing jury trial in civil cases cannot be so interpreted as to permit a

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nificance. Perhaps the most interesting is that of Nashville, C. & St. L. Ry. Co. v. Walters,[42] in which it was held that to impose upon the railroad half the cost of eliminating a grade crossing in a small town was, under the circumstances, arbitrary and a denial of due process. Evidence showed that the present surface crossing is not unsafe, that the new underpass was being constructed, largely with federal funds, as part of a broad network of state and interstate highways, that the immediate purpose was to facilitate motor traffic rather than to promote safety, and that, in effect, the railroad is being asked to pay a wholly disproportionate share of the cost of an improvement designed to benefit those competing against it by motor truck, bus, and private car. The case is distinguished in its facts from those in which railroads have been obliged to eliminate grade crossings at their own expense in whole or in part on the ground that the railroad was a menace to public safety. The case admirably illustrates the way in which due process-police power problems shift their emphasis with changing situations of fact.

In Panhandle Eastern Pipe Line Co. v. State Highway Commission,[43] it is held that the state cannot compel the pipe-line company to move its pipe lines, located on its own rights of way, to conform to changes in public highway location. The pipe lines are the property of the company; they in no way menace or obstruct traffic; and if the state desires to have them moved, it must pay the cost. It must, in short, proceed under eminent domain rather than the police power.

Semler v. Oregon State Board of Dental Examiners[44] upholds a drastic Oregon statute forbidding those practicing dentistry to advertise in any competitive or spectacular manner. While admitting that many dentists accustomed to use the forbidden methods might be honest and competent, the Court took the view that under the police power the state might properly provide "safeguards not only against deception, but against practices

federal district judge to make the issuance of an order denying a new trial in a damage action conditional upon the consent of the petitioner to an increase in the amount of damages awarded by the verdict of the jury. This seems to have been forbidden by the common law at the time of the adoption of the Constitution, although the converse practice of making such a denial of retrial conditional upon consent to a decrease in the amount of the verdict was not unknown. Four justices speaking through Mr. Justice Stone, dissented.

[42] 294 U.S. 405, 1935. [43] 294 U.S. 613, 1935. [44] 294 U.S. 608, 1935.

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which tend to demoralize the profession by forcing its members into an unseemly rivalry which would enlarge the opportunities of the least scrupulous." In the exercise of its police power, the state of California may, conformably to due process, make its workmen's compensation law applicable to an injury incurred in Alaska by a workman hired in California by a California firm to do seasonal work in Alaska. California has jurisdiction of the parties and, furthermore, is not obliged by the full faith and credit clause to apply the statute of Alaska. This is the case of Alaska Packers Association v. Industrial Accident Commission.[45] In Hegeman Farms Corporation v. Baldwin,[46] the Court held that a minimum price fixed by the New York Milk Control Board does not deny the plaintiff property without due process of law. By the force of competition, the minimum price fixed becomes automatically the maximum price as well, and the plaintiff alleges that it is thereby losing money. "The Fourteenth Amendment does not protect a business against the hazards of competition," and a marginal operator may not complain because his competitors may lawfully sell at a price which means loss to him.

(2) *"Liberty" in the Due Process Clause—Compulsory Military Drill in State University*

In Hamilton v. Regents of University of California,[47] the questions are raised whether the state by requiring students who object on religious grounds to taking military drill is denying them "liberty" within the meaning of the due process clause, or abridging their privileges and immunities as citizens of the United States. A unanimous Court answers both questions in the negative. Hamilton and others are members of the Methodist Episcopal Church, and have conscientious scruples against war and participating in training therefor. They were suspended from the University of California solely because of their refusal, on grounds of conscience, to take the required military drill. The Court accords respectful attention to the arguments of the plaintiffs but rules against them. In an opinion by Mr. Justice Butler (formerly a regent of the University of Minnesota), the general situation with respect to military drill in the land-grant colleges is outlined. It appears that the states have wide latitude under the Morrill Act of 1862 and its amendment with respect to the branches of military

[45] 294 U.S. 532, 1935. [46] 293 U.S. 163, 1934. [47] 293 U.S. 245, 1934.

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training to be provided, the content of the instruction, and the purposes to be sought. Allusion is made to the fact that in Wisconsin and Minnesota military drill at the state universities has recently been made optional, instead of compulsory, as at California. Whatever privileges and immunities of citizenship the plaintiffs are claiming are obviously privileges and immunities of state citizenship (the privilege of attending a state university without taking military drill) and are not, therefore, protected by the privileges and immunities clause of the Fourteenth Amendment, which applies only to the privileges and immunities of federal citizenship. Nor have the plaintiffs been deprived of "liberty" without due process of law. While this "liberty" does include "the right to entertain the beliefs, to adhere to the principles, and to teach the doctrines on which these students base their objections to the order prescribing military training," it does not include the right to attend the state university without complying with the state's requirement of military training. This is put on the ground that the government, federal and state, each owes to its people a duty to maintain peace, order, and just enforcement of law, while the citizen owes the reciprocal duty "according to his capacity, to support and defend government against enemies (citing Selective Draft Law cases,[48] United States v. Schwimmer,[49] and United States v. Macintosh).[50] The claim that compulsory drill is in violation of the Briand-Kellogg Peace Pact, which condemns war and pledges the signatories to the settlement of disputes by pacific means, is rejected without serious consideration. Mr. Justice Cardozo, in a concurring opinion, emphasizes that instruction in military training "is not instruction in the practice or tenets of a religion," and the immunity here claimed cannot reasonably be included in the concept of religious liberty protected by the First Amendment against federal invasion and by the Fourteenth Amendment against state invasion.

(3) *Due Process and Equal Protection and State Taxation*

The most interesting case involving state taxation and the Fourteenth Amendment was that of Stewart Dry Goods Co. v. Lewis,[51]

[48] 245 U.S. 366, 1918.
[49] 279 U.S. 644, 1929. For comment, see this REVIEW, vol. 24, p. 86.
[50] 283 U.S. 605, 1931. For comment, see this REVIEW, vol. 26, p. 266.
[51] 294 U.S. 550, 1935.

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in which by a five to three majority the Court held void a graduated tax upon gross sales levied in Kentucky. A tax of one-twentieth of one per cent was levied upon the first $400,000 of annual gross sales, and this rate is increased with each additional $100,000 of sales up to $1,000,000, where it becomes one per cent. The rates on each bracket are cumulative, however, so that the total tax is computed by adding the total tax for the sales within each bracket. Thus the tax on $1,000,000 sales is not one per cent, but .305 per cent. These levies are held arbitrarily discriminatory, and therefore a denial of the equal protection of the laws. The majority, speaking through Mr. Justice Roberts, fails to find a sufficiently close correlation between gross sales and ability to pay to justify classification on that basis. Gross sales may or may not vary with net income, which is the only sound criterion of capacity to pay. "A merchant having a gross business of $1,000,000, but a net loss, must pay a greater tax than one who has a gross business of $400,000, and realizes a substantial net profit." The tax here is distinguished from the graduated chain-store tax on the ground that the "advantages incident to the conduct of multiple stores and obvious differences in chain methods of merchandising as contrasted with those practiced in the operation of one store" provide reasonable grounds for the classification of chain stores according to the number of units in the chain. Those considerations and differences are of no significance in relation to the present tax. Mr. Justice Cardozo, with whom Justices Brandeis and Stone concurred, dissented on the ground that the legislature might rationally conclude that, by and large, capacity to pay increased with gross sales.

In Fox v. Standard Oil Company,[52] the validity of the graduated chain-store tax in West Virginia applied to gasoline filling stations was upheld against the contention that it denies due process and equal protection. This holding is in the face of the fact that filling stations are much more numerous than other chain stores, while the sales and profits from each are much smaller. The result is that the graduated tax, culminating with a levy of $250 on each store in excess of 75, may prove so heavy as to render the addition of further units in the chain actually unprofitable. The Court, however, sustaining the classification, did not find the rates "so oppressive as to amount to arbitrary classification or to unlawful

[52] 294 U.S. 87, 1935.

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confiscation." Justices Van Devanter, McReynolds, Sutherland, and Butler dissented. City Bank Farmers' Trust Co. v. Schnader[53] upheld the right of the state of Pennsylvania to tax the transmission by inheritance of an art collection owned by a resident of New York, but loaned over a long period of years without definite evidence of intention to recall, to a museum in Pennsylvania. Under these conditions, the property had *situs* in the latter state.[54]

(4) *Public Utilities and Due Process*

The few cases involving due process problems in the field of public utility valuation and rates can be barely mentioned. In West Ohio Gas Co. v. Public Utilities Commission,[55] it is held that in computing its operating costs to determine a fair return, the utility may include the legal costs of rate litigation when the company's complaint was not unfounded and the costs were not unreasonably large. In West v. Chesapeake & Potomac Telephone Co.,[56] the Court, by a majority of six to three, rejected the Maryland Public Service Commission's method of valuing the company's plant for rate purpose by the use of commodity price indices. Mr. Justice Roberts said: "To substitute for such factors as historical cost and cost of reproduction, a translator of dollar value obtained by the use of price trend indices, serves only to confuse the problem and to increase its difficulty, and may well lead to results anything but accurate and fair. This is not to suggest that price trends are to be disregarded; quite the contrary is true, and evidence of such trends is to be considered with all other relevant factors." They may not, however, be made the sole basis of calculation.[57]

(5) *Due Process in Criminal Procedure*

A case of potential interest is that of Mooney v. Holohan,[58] in which the Supreme Court was asked to issue a writ of habeas

[53] 293 U.S. 112, 1934.

[54] A complicated question of state jurisdiction to tax is decided in Senior v. Braden, 295 U.S. 422, 1935, which denies the state the right to tax land trust certificates representing interests in land situated outside the state, or situated within the state when it is already taxed according to value.

[55] 294 U.S. 63 and 79, 1935.

[56] 295 U.S. 662, 1935.

[57] Another case involving the problem of the valuation of railroad property is Rowley v. Chicago & N. W. Ry. Co., 293 U.S. 102, 1934.

[58] 294 U.S. 103, 1935.

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corpus in the case of Thomas Mooney on the ground that his conviction for murder in 1917 was accomplished by the use by the state of testimony known to have been perjured and on the further ground that the laws of California fail to provide any corrective judicial process by which a conviction thus obtained may be set aside. The petition was supported by an elaborate record of evidence. The attorney-general of California, without here controverting any of the facts alleged, contended that within the limits of Mooney's showing, due process can be denied "only where an act or omission [of the prosecuting officer] operates so as to deprive a defendant of notice or so as to deprive him of an opportunity to present such evidence as he has." In a *per curiam* opinion, the Court rejects this narrow view of due process. On the contrary, the requirement of due process "cannot be deemed to be satisfied by mere notice and hearing if a state has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a state to procure a conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation. The Court, however, does not find that the laws of California do not provide judicial process adequate to secure a reversal of conviction upon such grounds. In none of the attempts made by Mooney to secure relief in the state courts has he petitioned for habeas corpus upon the grounds here set forth. He does not therefore know, as yet, that the state courts can afford him no fair opportunity for relief. He must exhaust his California remedies before seeking relief in the federal courts, and his petition is therefore denied without prejudice.

II. RACE DISCRIMINATION AND THE EQUAL PROTECTION OF THE LAWS

1. *Exclusion of Negroes from Juries*

A case of far-reaching importance to the American Negro is that of Norris v. Alabama,[59] the second "Scottsboro case." It will be recalled that in Powell v. Alabama[60] seven negro boys convicted of rape in the state court were sent back for retrial by the Supreme

[59] 294 U.S. 587, 1935.

[60] 287 U.S. 45, 1932. For comment, see this REVIEW, vol. 28, p. 57.

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Court on the ground that they had been denied due process of law by being deprived of adequate right of counsel before and during trial. Upon motion for a change of venue, the second trial was transferred to another county and they were again convicted. It is now contended that Norris, one of the defendants, was denied the equal protection of the laws, since Negroes were systematically excluded from the grand jury in the county where the indictment was found, and from the trial jury in the county where he was tried. In a unanimous decision, the Court sustained this contention. Speaking for the Court, Chief Justice Hughes began by stating the long established doctrine that equal protection of the laws is clearly denied to defendants indicted or tried by juries from which Negroes have been excluded because they are Negroes. The evidence clearly shows that this has been done in this case. The evidence relating to the selection of the grand jury in the first county and the trial jury in the second is examined separately, but the findings are essentially the same. In the case of each county, it appeared that no Negroes had ever been called for jury service within the memory of the oldest inhabitants or any officer of the court. Paralleling this was the fact that in each county there were Negro citizens fully competent to render jury service—college graduates, teachers, school officers, substantial business and professional men. Also Negroes had been called for jury service in the federal courts of the district. In Jackson county, where the indictment was found, the names of six Negroes had been entered on the jury roll at the end of the alphabetical list of white citizens. An expert gave uncontroverted testimony that the six names were added after the original roll was made up. The conclusion is that "for this long-continued, unvarying, and wholesale exclusion of Negroes from jury service we find no justification consistent with the constitutional mandate." Although the point pleaded in the Norris case had not been properly raised in the pleadings in the case of Patterson v. Alabama,[61] involving another of the "Scottsboro" Negroes, the Court vacated the judgment in that case to permit the state court to proceed in accordance with the decision in Norris v. Alabama. A precisely similar result was reached in the case of Hollins v. Oklahoma.[62]

The significance of the Norris case lies in the fact that whereas heretofore it has been necessary in invoking the equal protection clause to make out clean-cut positive and intentional racial dis-

[61] 294 U.S. 600, 1935. [62] 295 U.S. 394, 1935.

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crimination in concrete cases, such discrimination is now inferred from the general fact that Negroes, without specific justification, appear to be denied equal treatment. The test seems to be the resultant inequality rather than the precise methods by which that inequality is produced. Thus the burden is shifted upon the Southern community to defend the inequality of status instead of leaving upon the Negro the burden of proving conscious discrimination in his particular case.

The Democratic party in Texas has at last succeeded in excluding Negroes from its primaries without violating their rights under the Fourteenth Amendment. The events culminating in this rather anomalous result make an interesting story. In 1923, the Texas legislature passed a statute in which it was provided that "in no event shall a Negro be eligible to participate in a Democratic primary held in the state of Texas." This was apparently inspired by the Supreme Court's decision in Newberry v. United States,[63] two years before, holding that federal authority to regulate congressional elections did not include the regulation of primaries. The Texas act was held void in Nixon v. Herndon[64] as a denial of the equal protection of the laws. A similar fate was meted out to a subsequent Texas statute which authorized the state executive committee of any political party to determine who might vote in its primary. The Democratic state committee promptly excluded Negroes from the Democratic primary, and the statute permitting such discrimination was, in Nixon v. Condon,[65] held to deny equal protection. Texan ingenuity, however, proved equal to the occasion. With the offending statute out of the way, the state Democratic convention of Texas adopted in 1932 a resolution reading: "Be it resolved, that all white citizens of the state of Texas who are qualified to vote under the constitution and laws of the state shall be eligible to membership in the Democratic party and as such entitled to vote in its deliberations." A unanimous Court held in Grovey v. Townsend[66] that a Negro denied the right to vote in the Democratic primary in Texas as a result of this party resolution was not denied any rights under the Fourteenth Amendment, since the discriminatory action no longer emanated from the state of Texas but from the Democratic party of Texas, which is a pri-

[63] 256 U.S. 232, 1921. [64] 273 U.S. 536, 1927.
[65] 286 U.S. 73, 1932. For comment, see this REVIEW, vol. 27, p. 54.
[66] 294 U.S. 45, 1935.

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vate organization and no part of the state government. In his opinion, Mr. Justice Roberts relies upon the decisions of the Texas courts supporting the view as to the private nature of parties in that state. He also alludes to the fact that the expenses of the primary are not borne by the state but by the candidates seeking nominations, that the ballots are furnished by the party and not by the state, and that counting of votes and making of returns are carried on by party, and not state, agencies. The party convention is not an instrumentality of the state of Texas; the right to vote in a party primary is not a right arising under or protected by state law; and the exclusion of Negroes thus effected does not therefore become assimilated to the state so as to fall under the ban of the equal protection clause, since there is no federal constitutional relief against private acts of race discrimination.

III. STATE AND FEDERAL RELATIONS

1. *State Police Power and Interstate Commerce*

One of the provisions of the New York Milk Control Act of 1933 stipulates that so far as is permissible under the Constitution, there shall be no sale in New York of milk brought in from outside the state unless the price paid to the producers was one which would be lawful if the transaction had taken place in the state. In Baldwin v. Seelig,[67] this is held void as an obstruction of interstate commerce. Seelig purchased milk in Vermont at prices lower than were permissible in New York, and sold it in New York both in original packages or containers and also in bottles filled from original containers. The prohibition of the state against the sale of the milk in original packages is a clear violation of the rule which protects articles of interstate commerce still in the original packages from burdensome state regulations. The New York regulation, however, is also a burden on interstate commerce as applied to bottled milk no longer in original packages. "Neither the power to tax nor the police power may be used by the state of destination with the aim and effect of establishing an economic barrier against competition with the products of another state or the labor of its residents. Restrictions so contrived are an unreasonable clog upon the mobility of commerce. They set up what is equivalent to a rampart of customs duties designed to neutralize advantages belonging to the place of origin. They are thus hostile in conception

[67] 294 U.S. 511, 1935.

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as well as burdensome in result. The form of the packages in such circumstances is immaterial, whether they are original or broken. The importer must be free from imposts framed for the very purpose of suppressing competition from without and leading inescapably to the suppression so intended." The Court rules out the state's contention that the regulation was intended as a sanitary or health measure in the sense of guaranteeing the farmers of the state a living income. Even such a motive cannot justify the burden imposed on the free flow of commerce.

2. *State Taxation and Interstate Commerce*

In three cases, state taxes were upheld by the Court against the charge that they imposed unconstitutional burdens upon interstate commerce. In Wiloil Corporation v. Pennsylvania,[68] a non-discriminatory state tax of three cents per gallon upon gasoline sold within the state was held properly imposed upon gasoline sold in Pennsylvania while still in the original packages in which it had come across the state line. This is merely a modern version of Woodruff v. Parham,[69] decided in 1869. In Detroit International Bridge Co. v. Corporation Tax Appeal Board,[70] the state was upheld in imposing a franchise tax upon a corporation which is created for the sole purpose of owning and operating an international bridge across the Detroit River. The tax is on the privilege of doing business in corporate form in Michigan. The company itself does not carry on foreign commerce; but those who use the bridge do so. In Virginia v. Imperial Coal Sales Co.,[71] the company had its chief office and place of business in Virginia, where it operated a sales agency only. It did not own mines, or mine coal, and most of its sales were of coal outside the state. A tax imposed upon the capital of businesses carried on in the state was held properly levied on this company. The tax was laid on the money in hand and on the excess of bills and accounts receivable over those payable. While this property is employed in interstate commerce, it is not for that reason immune from non-discriminatory state taxation. The tax is not a privilege tax upon the right to engage in interstate commerce, but a tax upon property having its *situs* in the state.

On the other hand, an annual uniform tax laid by the state of Montana upon each telephone instrument in use in the state im-

[68] 294 U.S. 169, 1935.
[69] 8 Wallace 123, 1869.
[70] 294 U.S. 83, 1935.
[71] 293 U.S. 15, 1934.

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poses an unconstitutional burden upon the interstate business conducted through the medium of these instruments. The local and interstate business done over a telephone are indivisible from each other, and a state tax so devised as to strike at both is void. This is the case of Cooney v. Mountain States T. & T. Co.[72]

3. *State Judicial Power and Federal Instrumentalities*

The immunity of federal agencies from state judicial process is less readily implied than immunity from state taxation. This is brought out in Federal Land Bank v. Priddy.[73] While the federal land banks are federal instrumentalities, and as such are subject to suit in state courts only as Congress may determine, the section of the Federal Farm Loan Act making them subject to suit "as fully as natural persons," coupled with the fact that the statute creates an explicit exemption from state taxation, leads the Court to conclude that Congress did not intend to exempt them from attachment and execution in the state courts.

IV. IMPAIRMENT OF THE OBLIGATION OF CONTRACTS

In W. B. Worthen Co. v. Kavanaugh,[74] statutory changes made by the legislature of Arkansas in the rights of mortgage creditors were held oppressive and arbitrary impairments of contract rights. The mortgages were created as means of enforcing the collection from lot-owners of benefit assessments to pay the cost of public improvements. They provided the security for the bonds by which the improvements were financed. The changes in the mortgages included: extension of the time for the payment of the assessments; extension of the time within which to appear after service of papers; a six-month extension before the case could be heard; a twelve-month period of grace within which to pay after the issuance of a decree; another six months after subsequent default; the exemption of the debtor from costs and attorneys' fees; the reduction of the penalty from twenty to three per cent; the repeal of provisions expediting appeals; the doubling of the period of redemption of the mortgage; and a reduction of the rate of interest during that period. In the opinion of Mr. Justice Cardozo, it is said: "The framers of the amendments have put restraint aside.

[72] 294 U.S. 384, 1935.
[73] 295 U.S. 229, 1935.
[74] 295 U.S. 56, 1935.

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With studied indifference to the interests of the mortgagee or to his appropriate protection, they have taken from the mortgage the quality of an acceptable investment for a rational investor."

A state statute, however, providing for the reopening of a closed bank by a state court, in accordance with a plan proposed by at least three-fourths of the creditors and recommended by the superintendent of banking, merely provides a new method of liquidation and does not impair the contract rights of creditors nor deny them due process of law. The reorganization plan proposed is examined and found free from arbitrary features. This is the case of Doty v. Love.[75]

[75] 295 U.S. 64, 1935.

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RURAL LOCAL GOVERNMENT

EDITED BY THOMAS H. REED
University of Michigan

County Government Progress in New York State. The determined attacks which students of county government in New York State have been making on the barriers which have prevented reorganization are at last attaining some success. At its regular session of 1933, the legislature passed and the governor signed a county home rule act sponsored by Senator Fearon, providing simply that any county outside of New York City might "adopt, pursuant to the provisions of this act, a county charter for the government of such county."[1] This act, however, did nothing effective to remove the considerable obstacles which the state constitution puts in the way of county reform,[2] and was itself of doubtful constitutionality. It served only to throw a clearer light on the fact, already familiar to students of the subject, that in New York it is the constitution that has been the strongest bulwark of antiquated local government.

At the extraordinary session which began in July, 1934, therefore, the governor, following the oft-repeated suggestion of the Commission for the Revision of the Tax Laws, headed by Senator Mastick, recommended in his message a revision of the constitutional provisions with regard to county government so as to permit the desired changes. In addition, the ill-fated first New York City charter commission,[3] and notably its chairman, former Governor Smith, presented to the legislature recommendations with regard to desirable changes in the county governments which still exist within New York City. All these recommendations were at length embodied in a single amendment, affecting Art. III, sec. 26, and Art. X, secs. 1 and 2, of the constitution. This amendment, also sponsored by Senator Fearon, passed both houses in July, 1934, and again at the regular session of 1935, and was approved by the people last November by a vote of 1,288,297 to 499,332 (in New York City, 679,543 to 183,066; upstate, 608,754 to 315,266).

"Home rule" in New York has traditionally meant, not (as usually elsewhere) vesting in local units any substantive power to provide the framework of their government, but protecting them against legislative interference and "ripper" bills and guaranteeing the local selection of the

[1] L. 1934, ch. 846; amended by L. 1935, ch. 951.

[2] See New York State Commission for the Revision of the Tax Laws, *Report* (1932 Leg. Doc. 77), Memorandum Number Three, pp. 52–79; *id.*, *Sixth Report* (1935 Leg. Doc. 63), pp. 126–131.

[3] Established by L. 1934, ch. 689. This law was repealed, however, and a second commission of nine, to be appointed by the mayor, provided for by L. 1934, ch. 867, passed at the extraordinary session. The second commission is still at work.

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officers who act within the framework provided by the legislature. Hence it is that in the name of home rule protections were embodied in the constitution—notably by listing specific officers and by safeguarding the local selection of all others so thoroughly as to prohibit in effect any transfer of functions from one unit to another—which had come to stand in the way of progress in local government even when it was desired both locally and by the legislature.

The first breach in this stone wall was an amendment effective in 1922, and applying only to Westchester and Nassau counties, permitting the legislature (subject to mandatory referendum) to transfer town (township) functions to the county and to reorganize the county board. The city home rule amendment, effective in 1924, went further and gave all cities power on their own initiative to adopt "local laws" relating to their government. The power of the legislature over county government in Westchester and Nassau counties, which had been absolute even after the voters' adoption of a form of government provided by it under the 1922 amendment, was restricted by a further amendment effective in 1930 providing that after such adoption by either county any special law applying to that county must be referred to the county board and, on petition, to the electors, and that if disapproved by the board it could become effective only if repassed by the legislature and approved by the electors. None of the charters proposed under this constitutional provision has, however, been adopted by the people in either Westchester or Nassau.

The need for the new amendment is thus apparent. Only in Westchester and Nassau was it possible to take any steps toward charter reform, and even these counties were still saddled with the compulsory constitutional officers (who would remain beyond the effective control of any county executive) and still subject to the requirement that functions performed in 1895[4] by any particular unit (town, city, or village) must continue to be performed, if at all, by an officer elected or appointed by that unit.

The amendment just passed opens the door that has so long been closed. For all counties outside of New York City, it removes all constitutional restrictions on the structure of county government and on the transfer of functions and officers from towns, cities, and villages to each other or to the county or the state. Possible rural-urban conflict is averted by a reasonable requirement that any form of government adopted must be approved by a majority of the electors not only (1) of the county as a whole, but also (2) of each city containing over a fourth of the county's population, and (3) of the county outside of such cities. Finally, after such adoption, the amendment forbids the legislature to undo its good work by any law relating to the "property, affairs, or government" of the

[4] The effective date of the present constitution.

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county which is special either in its terms or in its effect, except on an emergency message from the governor and a two-thirds vote in each house; and every such law which abolishes or creates an elective office or changes the voting or veto power of or the method of removing an elective officer, changes the term of office or reduces the salary of an elective officer during his term of office, abolishes, transfers or curtails any power of an elective officer, changes the form or composition of the county board, or provides a new form of government for the county, is subject also to approval by the electors of the county in the manner provided for the original adoption of an alternative form of government.

There is no provision, however, for framing and submitting such alternative forms by local action; only the legislature can submit them. In fact, though the constitutional barriers are removed and the power of the legislature to act after an alternative form has gone into effect in any county is restricted, the extent to which county authorities will be able to act for themselves under the new amendment is not altogether clear. A form of government under it, though required to "set forth the structure of the county government and the manner in which it is to function," may provide for the exercise by the county board of "powers of local legislation and administration;" but the legislature has had for nearly a century the power to provide for such exercise (Art. III, sec. 27), and there is in the new amendment no grant of power comparable to the "local law" provision for cities (Art. XII, sec. 3). It is probable, however, that the legislature will bow to public sentiment and propose forms of government sufficient in number, and flexible enough, to make this question more academic than practical.

Within New York City, the amendment specifically retains the twenty county judges, the six county surrogates, and the five district attorneys, while it provides that the five county clerks, formerly elective, shall be appointed by the appellate division of the supreme court and gives them the powers of the present five commissioners of jurors. But all other county offices in the city (five sheriffs, four registers, four commissioners of records, and five public administrators) may under the amendment be abolished or their functions transferred to city officers by the city on its own initiative; and after the city has acted, the legislature may not pass any law relating to these offices or functions except on emergency message from the governor and a two-thirds vote of each house.

The amendment's overwhelming success at the pools was something of a surprise, even to those who hoped most ardently for its adoption. Both parties, however, had given practically unanimous support to it on both the occasions when it came before the legislature, only three votes having been cast against it. Governor Lehman and Robert Moses, his opponent for the governorship in 1934, both advocated its adoption. Al Smith

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favored it. So did Mayor LaGuardia. So did Senator Fearon, Republican leader in the senate, and Joseph A. McGinnies, former speaker. The Association of Towns of New York State, representing the many town officers, endorsed it, as well as numerous civic organizations, including the State League of Women Voters. The story shows that the people will respond to vigorous leadership offering constructive proposals for reform in this field. Only fifteen of the state's smaller counties voted against it.

It is, however, in Westchester and Nassau counties, both rapidly growing suburban areas contiguous to New York City, that the constitutional restrictions on county reorganization have been most keenly resented. Agitation for their removal dates back at least twenty years, and the partial relief afforded by the amendments of 1922 and 1930 only tantalized those actively interested in real reform. It is from these counties, therefore, that much of the inspiration for the present amendment came, though many thoughtful citizens of Erie county (Buffalo) and Monroe county (Rochester), and indeed throughout the state—as the vote on the amendment shows—were also eager to see the way open for simplification in county government.

In Nassau county, the county board early in 1934, at the suggestion of its chairman, J. Russel Sprague, decided to take the lead in giving constructive direction to the movement for reform by authorizing a complete factual survey of the county and its constituent units by the Consultant Service of the National Municipal League, directed by Dr. Thomas H. Reed. The report of this comprehensive survey was finally made in October, 1934,[5] and in December of that year the board appointed a Commission on Governmental Revision[6] to study the facts there presented and make recommendations for the improvement of the county government in accordance with them. The Commission's first business was to consider a charter already drafted by an unofficial "bipartisan" committee which had failed of adoption in the legislature in 1934, but was passed at the 1935 session[7] by the Democrats as a party measure (the two Republican assemblymen from Nassau county voting against it) along with certain "ripper" bills. The Commission decided that this charter, drafted as it was under the old Westchester-Nassau provisions of the constitution, was seriously defective, and recommended that it be defeated by the people.[8] It then turned its whole attention to the task of

[5] Municipal Consultant Service of the National Municipal League, *The Government of Nassau County* (Mineola, New York, 1934).

[6] Earl J. Bennett (chairman), Alfred Douglas Olena (vice-chairman), James N. Gehrig (secretary), Henry J. A. Collins, Elwood A. Curtis, Joseph S. Hewlett, Oscar R. Houston, Edward S. Keogh, Harold P. Kreutzer, Lawrence E. Kirwin, Ellery Mann, H. Stewart McKnight, William S. Pettit, Henry R. Swartley, Jr., Edwin Vandewater, Howard G. Wilson, and Charles S. Wright. [7] L. 1935, ch. 938.

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drafting a charter which would take advantage of the new freedom allowed under the Fearon amendment. After a year of hard work, it has presented to the county board a complete charter for the county, which it recommends be submitted to the legislature at this session for adoption as an alternative form of government under the Fearon amendment, and then to the voters of the county at the election this fall.

If the charter is adopted, the new officers will be elected in the fall of 1937 and the new charter will go into full effect at the beginning of 1938. It provides for no change in the county board,[9] but for a county executive elected at large for a three-year term, with a qualified veto on its acts and with power, subject to its confirmation, to appoint all heads of departments and members of boards and commissions. A modern executive budget procedure is provided. The assessment of property for taxation is taken from the towns and given to the county; one man elected at large for a six-year term will be responsible for the preparation of the roll, and with four others appointed by the towns will constitute a board of assessors to prescribe rules for assessment and to act as a board of review. All health activities are to be centralized in the county under a county board of health, which will appoint a health commissioner. All welfare activities, including emergency relief, are likewise to be taken from the towns and other units and carried on through an appointive board of public welfare. The power of the county board to deal with the problems of sanitation, water supply, and waste collection and disposal is extended, and provision is made for the establishment of benefit areas to finance works for these purposes. A county civil service commission is established. A county planning commission is set up to prepare and administer a master plan; zoning is left to the towns, cities, and villages, except that the county planning commission is given authority to regulate border situations and to exercise subdivision control outside cities and villages. A county fire commission, elected by the volunteer firemen in the county, is established to recommend improvements in fire-fighting and fire-prevention regulations.

Provision is made for the establishment, after popular vote, of a county debt commission whose approval would be required for every bond issue of a municipality within the county which has exceeded a fixed overlapping debt limit of fifteen per cent, unless the issue is approved by a two-thirds vote in the municipality. The county executive is authorized to appoint a commissioner of accounts to investigate any county department. Supplies for county institutions, now purchased by the several

[8] This charter, submitted at the election last November, was defeated by a vote of 41,631 to 27,508 (51,916 blank).

[9] The county board in Nassau has but six members. They are elected by the three towns and two cities, but their voting strength is proportional to the population they represent. Cf. L. 1917, ch. 790, sec. 1-a, and L. 1918, ch. 289.

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boards of managers, are to be purchased by the county purchasing agent, and the towns, cities, and villages are permitted to contract for his services. A medical examiner is established to investigate suspicious deaths. Finally, a district court, with seven judges elected, one at large and the others from the towns, is established with civil jurisdiction and procedure similar to the municipal court of New York City and with criminal jurisdiction similar to that of justices of the peace, who are abolished.

In Westchester county, a Commission on Government[10] appointed by the county board on January 15, 1934, has been at work accumulating, with the expert aid of the Institute of Public Administration, under the direction of Dr. Luther Gulick, a large body of factual information on which a reorganization of the county government might be based. Its factual study has now been completed and, though it has not as yet reached final conclusions or drafted a charter to make them effective, it has begun a campaign to make available to the people of Westchester the facts which it has gathered as a basis for the charter which it intends to present.

Besides passing the Fearon amendment, the 1935 legislature also passed an optional county government law, introduced as part of the Mastick Commission's program by Senator Buckley and Assemblyman Falk.[11] It provides two plans of county government which can be submitted in any county outside New York City either by petition or by resolution of the county board. "Plan B" was submitted and approved by the people in Monroe county (Rochester) last November. The plans are identical except that "Plan A" provides for an elective county president with a four-year term, to be the executive head of the county and chairman of the county board, while "Plan B" provides for a county executive (not required to be a resident of the county) appointed by the county board for a four-year term. Other provisions include the appointment by the president or executive of all officers except those required by the constitution to be elected, as well as excellent and badly needed budget and purchasing provisions.

At last in New York, the ancestral home of the unwieldy township-supervisor type of county government, constructive steps are in progress to bring about the modernization of the county's creaking machinery.

[10] Carl H. Pforzheimer (chairman), John M. Morehead (vice-chairman), Mrs. William H. Lough (secretary), Julius Henry Cohen, Samuel T. Hubbard, Jr., Maurice Leon, and John J. Sinnott.

[11] County Law, art. 2-A; L. 1935, ch. 948 (S. int. 1208, A. Int. 1542). The Corbett-Kelly bill (S. Int. 1039, A. Int. 1364), similar except that it allowed changes by the county boards with or without an advisory referendum, was vetoed. A more comprehensive bill sponsored by Senator Desmond (S. Int. 56) passed the senate, but died in the assembly rules committee.

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If New York in the past has by its example misled its sister states, it seems now ready to take the lead in restoring county government to present usefulness.

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The Progress of County Government Reform in Wisconsin. Recent developments in Wisconsin in the field of county and town government indicate clearly that reform elements working within the electorate are not yet sufficiently powerful to overcome the forces of rural conservatism, political inertia and ignorance, and professional office-holding. Here, as elsewhere, county government remains in the grip of shrewd and stubborn opponents of reorganization. The forces of reform are not, on that account, to be under-rated. On the contrary, they show increasing evidences of realization of the nature of their function and the difficulties of their problem. Political education is being undertaken by a variety of agencies, and there exists ample indication of a genuine growth of popular interest in the needs of the state and its subdivisions.

County Zoning. Perhaps the most conspicuous development in recent years is the attempts of the state to control, in accordance with a planned purpose, the use of rural areas. The county has been selected as the district through which this reform is to be carried forward. Since 1923, a state law has permitted the counties to enact zoning ordinances. With the growth of economic strain in the rural areas of northern Wisconsin, a large number of counties have made use of their zoning powers.[1] By October, 1935, twenty-one counties had definitely adopted zoning ordinances. This number includes only one area predominantly urban, i.e., Milwaukee county. In addition, in five counties, a zoning committee had been formed, an ordinance prepared, and town meetings held preparatory to the adoption of the scheme.[2]

The counties which have adopted zoning ordinances cover the entire northern part of the state and a considerable portion of the central area —sections comprising the cut-over lands, where tax delinquency has become a pressing problem. In these districts, the decline of population seriously embarrasses both towns and counties in their attempts to continue social and governmental services. The county became the logical area for zoning both because of convenient size and because of the fact that delinquent lands revert to county ownership.

[1] Milwaukee county was the first to adopt a county zoning ordinance (1927). Oneida county, the first rural county to take such action, did not follow until 1933. A county zoning ordinance exists in Manitowoc county, but as it is not designed to meet the problem of the forest region, it is not included in this study.

[2] Rowlands, "Rural Zoning Ordinances," *Wisconsin Public Employee*, Nov., 1935; Greene, "Rural Zoning in Wisconsin," *The National County*, June, 1935.

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The typical county zoning ordinance divides the county into three districts,[3] the first two restricted, respectively, to forestry and recreation, the third unrestricted. Dwellings, but not farms, are permitted in the recreation district. The ordinance may include rules governing the location of roads, schools, trades, and buildings. The usual procedure in setting up the ordinance begins with a survey of county financial, land, and economic problems by members of the University staff and the State Conservation Commission. Thereafter the ordinance is prepared and discussed at town meetings. When public opinion is thus ascertained, the ordinance is presented by the county board to the town boards, and later it is adopted definitely by the county board with respect to those towns which have accepted it. No zoning ordinance will be applied to a town against the will of the town board. In most cases, however, reluctant town boards are forced into the system by the disadvantages of isolation.

Non-conforming usage of land existing at the time of the adoption of the ordinance may be continued. If at any time discontinued, however, it may not be resumed. Counties may trade farm land which they own for farms in the forest area, and thus assist farmers to move into more favorable areas. Some of this sort of moving has taken place, although as yet on a very restricted scale. Up to the present, the county zoning law has not been subjected to a legal test in the courts.

City-County Merger Movement in Milwaukee. The development of county zoning is primarily a rural movement. In Milwaukee, a more pressing question exists in the renewed struggle of the state's only large metropolitan district for unification of its ninety-three taxing units. This question has been brought up frequently since 1906. As a result of reawakened public interest in the problem, the electorate, on November 6, 1934, received two advisory referenda for consideration. The city of Milwaukee voters were asked: Do you favor changes in the law which will make one officer elected in each assembly district in the city of Milwaukee the representative of said district on both the county board of supervisors of Milwaukee county and the common council of the city of Milwaukee? The second question was asked of Milwaukee city and county voters: Do you favor effecting, by such county board, or legislative action, or amendment to the state constitution as may be necessary, consolidation of municipal services and governments in Milwaukee county?

In the county as a whole, the voters indicated emphatic approval of the consolidation plan. In the city of Milwaukee, the vote on the consolidation of council and board of supervisors (as far as city delegates are concerned) was: Yes, 95,406; No, 24, 866. The city voters put the stamp of approval on general consolidation by a vote of 88,845 to 19,855. The county approved general consolidation by a vote of 102,895 to 39,827.

[3] Sometimes only two.

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To the surprise of the public generally, two suburbs, West Allis and Cudahy, also favored consolidation. The other suburbs, as was expected, opposed the proposal, although in some cases the vote was close. The question of consolidation has been pushed by a joint committee of representative citizens who have issued a report presenting forcefully the inadequate administration in the area due to the vast maze of overlapping districts.

In spite of the overwhelming evidence of popular support received by these merger proposals, a limited number of opponents were able to defeat by narrow margins bills subsequently introduced in the state legislature which would have empowered Milwaukee to combine the functions of city alderman and county supervisor in the same person. Late in the session, however, the legislature passed an act providing that, in a special referendum to be held in April, 1936, the voters of the city of Milwaukee should determine, by majority vote, whether the functions of the city should be turned over to the county. Upon consolidation, city offices were to become vacant. This measure, which was opposed by the sincere proponents of the merger, was vetoed by Governor LaFollette.[4]

Functional and Territorial Consolidation Bills in the Legislature. Other efforts at state-wide county consolidation, both functional and territorial, are evidenced in a number of highly significant bills presented to the 1935 legislature. The Daugs bill, sponsored by the League of Women Voters, succeeded in obtaining legislative approval. It provides a method of optional consolidation of counties whereby any two or more adjoining counties may consolidate by popular referendum on the basis of plans prepared by the county boards of supervisors. In the probable eventuality that the board of supervisors takes no steps initiating this action, not less than twenty per cent of the qualified electors in each county may require the board to take action. If, however, a plan of consolidation cannot be effected by the board within six months, the circuit court judge of the county concerned may appoint a consolidation committee of five representative citizens to draw up a plan. The consolidation plan as drawn up can be carried into effect if a majority of the votes cast in each county favor the plan. If less than a majority of the votes cast in any county are in favor of the plan, it fails. If a majority of the votes cast in any county are opposed to the plan, the question of consolidation may not be sub-

[4] In the spring elections of 1935, West Allis voters reversed their previous verdict, although in this case the questions were deliberately framed so as to make the danger of absorption by Milwaukee city seem imminent. *Milwaukee Sentinel*, April 3, 1935. A resolution for a constitutional amendment to open the way for a city-county merger in Milwaukee has also been defeated. City and county officials are doing what they can to advance the merger of individual functions, such as park and election control, as between county and city. *Milwaukee Sentinel*, Dec. 2, 18, 1934.

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mitted again in that county for a period of two years. Unless the plan provides for other arrangement, the debts, liabilities, and duties of the original counties pass to the new district.

Up to the present, county consolidation in the state has required special acts, which have been practically unknown. A bill of a few years ago providing for a referendum on consolidation in Buffalo and Pepin counties was vetoed by the governor.[5] The Daugs Act, while optional, will certainly open the gates to increased agitation for this needed type of reform.

The League of Women Voters and other influential agencies[6] also sponsored a bill (which has previously appeared many times) to create a county school board. The board was to be elected popularly and to have the power to appoint the county superintendent of schools and the supervising teachers, and to direct the functions of those officials. The powers of the school districts as they now exist were left practically unimpaired. The bill was again defeated. There can be no doubt, however, that the agencies which backed the measure in the 1935 session will present it again at the next opportunity. They are determined not to accept an optional bill and have already begun a campaign of public education which it is hoped will be more effective in a future session.

The third significant bill in this field related to the relief unit and was sponsored by the Wisconsin Conference of Social Work. Wisconsin's basic relief law was passed in 1849 and, in common with those of the older states, followed the administrative plan of the Elizabethan Poor Law. The town, the village, or the city is the unit of relief administration. Even in the original act, however, provision was made for adoption of the county as the relief administrative unit by the county board of supervisors. Forty-five counties are on the unit system at present, excluding those thrown into that category by the present emergency. A total of fifty-two counties have been on the county unit system, as the result of insistence on this or similar systems by the federal and state relief authorities. Fifteen have operated on the group system, and the remaining four have not received federal aid.

The bill sponsored by the Social Work Conference established the county as the administrative unit for relief. An additional impulse was given to consolidation by the provision that two counties might unite for relief administration, under a regional director, by the consent of the county boards, and subject to the approval of the state board. Administration was to be conducted by a committee chosen by the county board, and this committee was to appoint a relief director, subject to approval

[5] Governor Schmedeman.

[6] Including the Federation of Women's Clubs, the Wisconsin Congress of Parents and Teachers, the Wisconsin Teachers' Association, the State Department of Public Instruction, and others.

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by the state board. Although the bill stated that such selection should be upon a merit basis, without consideration of political or religious connections, or of residence, no machinery was provided for attaining an aim so acceptable theoretically, so uncomfortable politically. Removal of the director was to be for cause, after notice and public hearing. It is conceivable that under this latter provision civil servants might look to the courts for aid in enforcement. Additional appointments were to be made on the merit principle in counties where that system of personnel selection prevails.

Litigation under the poor laws arises chiefly over quarrels between towns as to the settlement of relief recipients. The Conference's bill attempted to wipe out this useless and expensive litigation by providing that settlement should be by county, rather than by town, and by providing that disputes on this point should be taken to the state board (the Industrial Commission until some other agency should be named), rather than directly to the courts. Although appeal from the board's findings to the circuit court of Dane county was wisely provided for, past history indicates that few such cases would have been appealed.[7] In the senate, this bill was amended by the addition of requirements that cash relief should be paid as a general rule, and that prevailing wages should be paid on public works projects carried on under the county, unless the federal government required otherwise as a condition of a grant-in-aid. Thereafter the bill was voted down.[8]

Merit Systems and Elections of County Officials. Milwaukee county has earned distinction by its application of the merit system to its civil service. A surprisingly vigorous attempt to apply the same system in Dane county[9] was made at the 1934–35 winter meeting of the board of supervisors. A majority report of the judiciary committee, backed, as was to be expected, by the rural members, recommended that the merit system resolution be defeated. Three members of the committee from urban regions submitted a minority report recommending adoption of the merit scheme, but this minority view was rejected by the entire board by a vote

[7] This procedure before the commission was provided for in a separate act, passed later, without affecting the problem of the size of the unit. In the expectation that the federal government will retire from direct relief, five counties, all predominantly rural, have decided to abandon the county unit system.

[8] Similar bills have previously been defeated. In this connection, it is interesting to note that a $5,000,000 relief bill passed by the legislature in the spring of 1935 provided for administration of work relief and direct relief programs by local units of government exclusively. This provision was vetoed by Governor LaFollette, who cited Harry Hopkins' disapproval of local administration of relief without centralized control. *Capital Times*, March 15, 1935. This is especially interesting politically since the governor's Progressive party contains some of the state's most militant particularists.

[9] In which the capital city is located.

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of 44 to 34. Nevertheless, the vote indicates a deep appreciation of the advantages of the merit plan. An attempt to get the board to authorize a referendum upon the question failed because of the board's lack of statutory authority to order such a referendum upon its own motion.[10]

An attempt to take elective county officers out of their present active connection with partisan politics was made in the introduction of several resolutions and bills in the 1935 legislature to provide for non-partisan election of these officials and to increase their terms of office beyond the present usual period of two years. All of these efforts ended in failure, although summoning substantial minorities to their support.[11]

The County Commission Form Declared Unconstitutional. In 1921, section 59.95 was added to the Wisconsin statutes making possible the adoption of the commission form of county board in lieu of that cumbersome accompaniment of the township system, the county board of supervisors.[12] The Wisconsin county board sometimes reaches an enormous size. The gathering of the Dane county board has been compared, in numbers, to a meeting of the United States Senate. Five counties have availed themselves of the statute permitting a smaller board.[13] Agitation for the adoption of this system in other counties has been noted recently.[14] However, on November 6, 1934, the supreme court of the state declared the legislation in question contrary to the state constitution, which provides that "the legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable."[15] One significant trend in the direction of improved local administration in the state was thus effectively halted, as it will be a difficult matter to secure either a constitutional amendment altering the legal situation or a statute establishing the small board form as the uniform rule throughout the state.

These varied activities, most of them incomplete as yet, are none the less cause for definite encouragement for those who hope to achieve reorganization of our inefficient and illogical local government by the ordinary democratic processes. With attacks being made along the lines of territorial consolidation, functional reorganization, improved personnel policies, and protection of the state's resources, it can be said that no approach to improved civic life in this sphere is being neglected by the reform groups in the state. There is reason to believe that substantial progress may be made by continued efforts to build from the electorate

[10] *Capital Times*, Feb. 14, 21, 22, 1935.

[11] *Ibid.*, Feb. 27, Mar. 29, 1935. An act of the 1935 session permits county boards to place deputy sheriffs under the merit system.

[12] Amended in 1923 and 1933.

[13] Burnett, 1923; Rusk, 1928; Vilas, 1933; Douglas and Sawyer, 1934.

[14] The commission form had been a political issue in Dane county.

[15] State *ex rel.* Adams v. Radcliffe, 216 Wis. 356, 257 N.W. 171.

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up as an alternative to the swifter but less convincing imposition of reform by the central government.[16]

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Recent Trends in Local Government in Michigan. During the first five months of 1935, interest in local governmental problems in Michigan was centered in the regular session of the legislature. The 1935 session should be congratulated on letting some measures lie fallow in committee and on defeating others. Among these bills were several which would have played havoc with the operation of the general property tax in local units. They would have provided for the blanket cancellation of delinquent taxes and for broad exemptions from the property tax. It was the defeat of such proposals rather than any positive program that redounds to the credit of the legislature.

Of the bills that became law, perhaps the most important was one dealing with the refunding of municipal debts. Under its terms, a municipality may refund all or any portion of its funded debt in order to secure an interest rate of at least one-half of one per cent lower than that specified in the refunded obligations. This may be done "even though there is no default or prospective default in the payment of its funded debt." Any such refunding operation, however, requires the sanction of the state public debt commission.[1]

The outstanding piece of legislation, as to counties, was an act authorizing county boards of supervisors to pass zoning ordinances. Any county board may provide in the unincorporated areas for districts or zones in which the use of land, natural resources, and structures may be specified. Height, area, size, and location of buildings may be regulated by ordinance. The board may determine the areas to be used for agriculture, forestry, and recreation, and for such purposes it may divide any county into districts. It may also limit and restrict the maximum number of families which may be housed in dwellings hereafter erected or altered. The law provides for the creation of a planning committee within the board of supervisors. It says also that the state planning commission "shall assist in determining the validity of the land classifications and zoning proposals submitted by the county planning committee" to the

[16] In some counties, there has been discussion of the project of creating utility districts as provided for under the 1931 law. The voters of parts of Polk and Burnett counties have acted to establish such a power district. The proposed district having been approved by the Public Service Commission, motion to acquire existing utilities in the district has begun. A utility group has challenged in court the validity of the referendum vote on the establishment of the district.

[1] Mich. *Public Acts* (1935), No. 42.

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county board. But the bill providing for a state planning commission was vetoed by the governor.[2] Without the assistance and spur of a state planning commission, it seems doubtful whether many, or any, county boards will act. Moreover, provision was made for members of the county planning committee and an equal number of members or representatives of the state planning commission to serve as a board of zoning appeals. The zoning law is an optional one, and has no legal effect in any county until the people have so voted in a local referendum.[3]

The county home rule issue came to the fore in the legislative session. For some years, the Michigan senate has passed county home rule amendments. The house of representatives has consistently rejected any joint resolution proposing such an amendment. But in the closing hours of the session, a proposed amendment was passed, with only one vote to spare in the house. Under the circumstances, one would suspect either a radical change of front on the part of the legislators or a radically different amendment under the same general title. The latter is the case. The amendment will be placed on the ballot in November, 1936. It proposes the addition of the following sections to Article VIII of the Michigan constitution: "Sec. 32. The legislature shall provide by a general law for the incorporation of counties; such general law shall limit the rate of taxation for municipal purposes and restrict their powers of borrowing money and contracting debts. Sec. 33. Under such general laws, the electors of each county shall have power and authority to frame, adopt, and amend its charter and, through its regularly constituted authority, to pass all laws and ordinances relating to its municipal concerns, subject to the constitution and general laws of this state: Provided, that no such charter or amendment shall become effective in any county unless the same shall have been approved by a majority of the electors voting thereon of that city located within such county in which are cast the largest number of votes upon such proposition and also by a majority of the electors voting thereon residing outside the corporate limits of such city."[4]

The amendment was modelled after the constitutional provisions which serve as the basis for the Michigan system of municipal home rule. Under a liberal home rule act, the cities of Michigan have been comparatively free to experiment with types of government. But there is this very different turn to the county home rule provisions. The constitution prescribes no form of municipal government. It does, in detail, lay down a basic form of county government. The legislature, in setting up a new general law under which counties might frame charters, will, in all probability, be bound by these constitutional limits as to the form of county

[2] House Enrolled No. 123.
[3] Mich. *Public Acts* (1935), No. 44.
[4] House Joint Resolution No. 3.

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government. The constitutional form of government is not repealed by the amendment, nor is the legislature specificially authorized to disregard it in framing a general law of incorporation for counties. The amendment falls far short of authorizing in clear and unmistakable language any major adjustments, such as those which would have been possible under the 1934 amendment initiated by petitions signed by more than 250,000 voters, but nevertheless defeated. If the purpose of the amendment was to checkmate the attainment of major objectives by county home rule, it was drafted in a masterful fashion. If the intent was to authorize vital reorganization, its wording is most unfortunate.

On other fronts, there are signs of civic endeavor. An able charter commission, with the assistance of the Michigan Municipal League, drafted a home rule manager charter for the city of Saginaw. The voters have given it their approval. On December 2, they elected nine city commissioners pledged to the appointment of a city manager who will be wholly responsible for administering the governmental affairs of the city in full accordance with the intent and spirit of the charter. The charter is marked by the complete centralization of the power to appoint departmental heads in the hands of the manager. While charter commissions have a habit of leaving the clerk, the attorney, the treasurer, or some other officer or officers to the fates at a popular election, the Saginaw commission did not falter. Having provided for an elective city council, it wisely left the selection of all administrators to the manager.

The city of Flint is embarking upon a policy of civil service, and other cities are showing interest in personnel problems. The Michigan Municipal League has taken some preliminary steps in the direction of in-service training for public officers. While county government seems likely to continue for years in its traditional ruts, the Municipal League has done much to inject new life into the consideration of municipal problems in the state. The recent acquisition in Ann Arbor of new and enlarged headquarters for the League is tangible evidence of the position which this organization has assumed in municipal affairs.

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County Reorganization in Ohio. During the past year, the county reorganization problem has been attacked in Ohio along two fronts, corresponding to the two lines of procedure permitted by the state constitution. Under the home rule amendment adopted in 1933, the legislature is empowered to enact optional plans of county government and counties are also authorized to frame and adopt their own charters. The last twelve months have witnessed the first contests over the application of these provisions. A comprehensive program of county reorganization measures

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has been presented to the legislature and charters have been submitted in four leading counties. The principal accomplishment thus far has been the approval of the Cuyahoga county (Cleveland) charter by a substantial majority vote in the county as a whole.

The ground-work for both attacks was laid by a special commission on county government appointed by the governor following the adoption of the county home rule amendment. This commission was headed by Charles P. Taft of Cincinnati, and the present writer served as secretary and director of research. After an intensive study, the commission submitted a report on county reorganization problems[1] and presented to the 1935 session of the legislature a program of measures embodying its principal recommendations. This program consisted of three types of proposals. First, there was a bill authorizing a series of optional plans of county government subject to adoption by the local electorate. Second, the commission submitted a group of piecemeal reorganization measures designed for counties which are not yet ready for a complete revision of their government but which may, nevertheless, be interested in a simplification of the present system. Finally, there were bills to facilitate the integration of local government, particularly in large urban counties, of which Ohio possesses a considerable number.

In the optional plan bill, the commission did not compromise with the status quo, but rather attempted a thoroughgoing modernization of county structure and business procedures. The bill authorized three forms of organization designated as the manager, the elective executive, and the appointive executive plans, with various alternatives as to subsidiary features. The first and second proposals were typical applications of the manager and federal plans of organization, while the third was substantially the same as the so-called executive plan in Virginia and an adaptation of the arrangement long employed in Ohio school administration. Under this scheme, the executive would be appointed by the county board and perform the functions of a manager except that department heads would be appointed and removed by the board upon his recommendation rather than by him on his own authority. While this arrangement is not in principle as effective as the manager plan, it is somewhat less likely to run afoul of rural opposition to the centralization of power, and in actual operation may prove but little different.

The size of the county board was left to local determination within certain limits, and three methods of nomination were permitted. These included the party primary, the non-partisan primary, and nomination by petition, with a non-partisan county ballot required in the last two cases. With the exception of the prosecuting attorney, whose election was

[1] Governor's Commission on County Government, *The Reorganization of County Government in Ohio* (1934).

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optional, all administrative officers below the rank of county executive were appointed by the executive or, under the third plan, by the county board. Thus, a short ballot was assured and effective administrative control made possible. The departmental arrangement was standard in all three plans, consisting of departments of finance, public works, welfare, law enforcement, and records and court service, the five major functions administered by Ohio counties. A combination of departments was permitted, and in the smaller counties the executive was required to head a department.

The most unique feature of the measure was no doubt the department of law enforcement. This department brought together under one head the duties of the prosecutor, the coroner, and the criminal functions of the sheriff, the civil duties of the sheriff being assigned to the department of records and court service along with the functions of the clerk of courts and the recorder. In the larger counties, a separate officer was provided to head the department of law enforcement, while in the smaller counties control was vested in the prosecutor or the chief executive.

Though such an arrangement involves a complete break with the past, it comes nearer than any other plan to securing unified control and responsibility and a real coördination of law enforcement agencies, which are vitally needed in handling the crime problem. In so far as urban counties are concerned, the plan contemplates the eventual absorption of all local police and prosecution work in a single county department. In the judgment of the author, such a department would afford the most effective set-up for the administration of this perplexing function. Though quite at variance with tradition, the proposal was surprisingly well received by those who gave the problem careful consideration.

After passing the senate by a large majority, the bill was finally beaten by ten votes in the house. The hostility of a few party leaders was of course a contributing factor, but rural conservatism was the main cause of the defeat. Opposition did not attach to any particular phase of the proposal so much as to the general idea of concentration of power. The plain fact is that rural opinion in Ohio is sincerely fearful of centralized administration, whatever its form, and still firmly believes that popular government requires the election of all administrative officials. The result was, nevertheless, sufficiently close to afford reasonable hope of success upon another attempt. Though temporarily defeated, the bill has already served a valuable purpose as a guide to local charter commissions.

The piecemeal reorganization measures included bills permitting the consolidation of several offices and agencies, the establishment of centralized purchasing, and the substitution of the medical examiner system for the elective coroner. Most of these bills also passed the senate, but met with the same fate as the optional plan bill at the hands of the

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rural majority in the lower house. The one exception was a proposal for the concentration of county welfare services in a single department. This bill struck at the most extreme example of hodgepodge organization to be found in the whole governmental system of the state. An average Ohio county has at least seven separate agencies for the administration of welfare activities and provides eight different but overlapping types of poor relief and institutional care. Unfortunately, this measure reached the governor's desk shortly after his feud with Mr. Hopkins over the administration of emergency relief. In vetoing the bill, the governor pronounced the centralization of welfare services a dangerous innovation, poor relief being in his judgment a matter to be handled by township trustees without benefit of social workers or experienced welfare leaders.

Only two of the commission's bills eventually became law, but both were of first-rate importance to the large urban counties. One makes possible the unification of health and welfare administration on a county-wide basis, and the other authorizes any local subdivision to contract with the county to have the latter perform for it any service which the subdivision itself can legally maintain, the expense being charged back to the subdivision. Under this act, far-reaching changes in local government can gradually be worked out by mutual agreement. It is hoped that considerable progress can thus be made toward unified administration of activities of county-wide concern in the metropolitan counties.

While the rural majority in the assembly was blocking optional reorganization measures, four of the principal counties were actively at work on their own charters. In November, 1934, all of the eight large urban counties of the state attempted the election of charter commissions. In four cases, Cuyahoga (Cleveland), Hamilton (Cincinnati), Lucas (Toledo), and Mahoning (Youngstown), commissions were elected, and in Montgomery (Dayton) the effort failed by only a narrow margin. With the exception of Hamilton county, the charter commissions consisted almost entirely of handpicked candidates presented by the citizens' committees sponsoring the movement. In the county mentioned, the Republican organization placed its own slate in the field and succeeded in electing six of the fifteen members.

The scope of the charter-making authority is unusually broad under the county home rule provisions of the Ohio constitution. Not only may a charter determine the form of county government and the method of nomination and election, but, subject to the requirement of extraordinary majorities for adoption, a charter may vest municipal powers in the county, either on a concurrent or on an exclusive basis. Thus, a county can effect by charter a reconstruction of the system of local government ranging from a slight expansion of county activities to complete city-county consolidation.

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In spite of the fact that three of the four counties framing charters have metropolitan problems of considerable importance, none attempted the transfer of municipal powers in its initial charter. The question was long and thoroughly discussed by the charter commission of Cuyahoga county, where the metropolitan problem is especially acute. In fact, a proposal was actively considered to declare the county a municipal corporation with all powers not specifically reserved by the charter to the component subdivisions. Eventually, this scheme was abandoned because of the difficulty of securing the majorities necessary for adoption. Whereas a charter dealing only with county government requires but a simple majority in the county as a whole, a charter vesting municipal powers in the county must secure a favorable vote both within and without the principal city and in each of more than half of the townships and municipalities. Though such a requirement is not an impossible barrier, as evidenced by the fact that the Pittsburgh-Allegheny county charter would have been ratified under these conditions, the difficulties are too obvious for comment. Rather than risk the outcome of the entire enterprise upon a few thousand votes in the outlying subdivisions, the charter commission finally decided to leave the metropolitan problem to be dealt with later by amendment.

The Cuyahoga, Hamilton, and Lucas county charters struck out boldly for complete county reorganization, while the Mahoning charter attempted only a simplification of the present system, with some improvements in business procedures. The underlying characteristics of the first three charters were much the same and may be summarized together. All three applied the manager plan, though under various names, and provided for non-partisan nominations and elections. With the exception of one office in Hamilton county, all administrative offices were removed from the ballot. Administrative activities were almost completely departmentalized, and in the Cuyahoga and Lucas charters the whole time-honored array of county officers was thrown overboard except the prosecutor. In all three the coroner was abolished and the sheriff's office dismembered, the civil duties being merged with those of the clerk of courts. These charters also took advantage of the legislation, previously referred to, permitting the county to take over health administration for the entire area. Centralized purchasing, county planning, and an extension of the merit system to all positions below the rank of department head were additional features of these charters.

Though the charter commissions had been authorized by overwhelming popular majorities in all four counties in 1934, only the Cuyahoga county charter received a favorable majority at the polls. In Hamilton county, the Republican organization focussed its main attention on the defeat of the charter and waged a bitter and effective campaign of misrepresenta-

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tion. The defeat of the Lucas county charter was due to a combination of factors. In the first place, popular interest was centered primarily on a vigorous campaign for the election of a high-grade city council under the new P. R. city manager charter in Toledo. A second factor was the marked improvement in county administration under the existing group of county officers, which contrasted sharply with an unusually inept city administration. The defeat of the Mahoning county charter was but slight loss, since the draft was seriously defective.

While the Cuyahoga county charter received a substantial affirmative majority, the outcome has not been finally determined at this writing. Despite the fact that the charter specifically states that nothing therein shall be deemed to vest in the county any municipal power which would necessitate the extraordinary majorities above described for adoption, the objection has been raised that such powers are in fact conferred by the charter and that the special majorities are, therefore, required. In the judgment of the author and of the charter drafters, this contention is not well grounded. However, a supreme court decision will be necessary before the question is finally disposed of. In view of the limitation written into the charter itself, the court need have no difficulty in upholding its adoption.

The Cuyahoga county charter provides the most drastic reconstruction of county government yet attempted. It replaces the old board of county commissioners with a county council composed of eight members elected by proportional representation for two-year terms and a council president separately elected by preferential ballot. The council appoints and removes the county director, who is a county manager in everything but name. Administrative activities are almost entirely concentrated in six departments under heads appointed by the county director. These departments are: law, finance, public works, public health and welfare, public safety, and records. All fiscal duties other than post-audit are assigned to the department of finance. The department of health and welfare takes over health administration throughout the county, all the county welfare services, and eventually, it is hoped, the welfare activities now performed by municipalities as well. The department of public safety assumes the criminal duties of the sheriff, while his civil duties are assigned to the department of records along with the registration of deeds and the keeping of court records. The only independent administrative officers are the prosecutor and the controller. The former is appointed by the council president and performs only the function of prosecution, while the controller is chosen by the council and is simply an auditor.

Ohio's experience amply demonstrates the difficulty of remodelling traditional political institutions even after they have been stripped of the respect which antiquity so often engenders. It also indicates the

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value of local charter-making authority in attacking the reorganization problem, in spite of the failure of all but one of the charters presented. Three of the charter commissions submitted proposals unquestionably superior to any that could have been pushed through the legislature as optional forms of county government. Even after eliminating from the optional-plan bill all provision for non-partisan nominations and elections, it was impossible to overcome the combined forces of rural inertia and entrenched political opposition. On the other hand, three of the four charters provided for the manager plan with a short ballot and non-partisan nominations and elections, and one of the three incorporated proportional representation. It is evident that the charter commissions shot straight and far. Though it may be contended that this had something to do with the failure of the charters, such does not appear to have been the case. The primary causes of defeat were political opposition and the lack of an adequate educational campaign to arouse the electorate.

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The Canadian Election of 1935—and After. On October 14, 1935, the Conservative party, which had been in power in Canada since the general election of July, 1930, was resoundingly defeated. The Conservatives had carried 137 seats in 1930. In 1935 their numbers were reduced to 40. The 93 Liberal seats of 1930 were increased in 1935 to 179—a majority of 113 in a house of 245. Such a majority is without precedent in Canadian history. Even the Unionist government in the war election of 1917 received only 153 seats to the opposition's 82. The Liberal sweep was almost Dominion-wide. The Liberals carried all but one of the 26 constituencies in the three Maritime Provinces, 60 of the 65 Quebec constituencies, 56 out of 82 in Ontario (more than they have obtained in that province in any election since 1874), 14 out of 17 in Manitoba, 16 out of 21 in Saskatchewan, 7 out of 16 in British Columbia. Only in Alberta did they suffer a crushing defeat. There, only one Liberal was returned; 15 of the remaining 16 seats were carried by the new Social Credit party; the other seat went to the leader of the Conservative party, Mr. R. B. Bennett.

The election returns were full of surprises. The much heralded Reconstruction party, formed two months before the election by the former Conservative minister of trade and commerce, Mr. H. H. Stevens, contested 172 of the 245 constituencies, but returned only its leader to Parliament. The Coöperative Commonwealth Federation, formed in 1932 of a union of farmer, labor, and socialist groups with a total membership of 15 in the House of Commons, put up 118 candidates, but elected only 7.

The landslide to Liberalism was truly of heroic proportions. But as in every previous electoral landslide in Canada, the proportions remain heroic only if one keeps one's eyes fixed on the changes in party strength in the House of Commons. The changes in party voting strength, expressed as percentages of the total vote cast, tell an entirely different story:[1]

[1] The authority used in determining the political affiliation of candidates is *Official Nominations* (Canadian Press, Toronto, 1935). The number of votes cast for each candidate is given in Part IV of the Report of the Chief Electoral Officer for the General Election of 1935. Two departures were made from the affiliations as given by the Canadian press: Mr. Henri Bourassa (Labelle, Quebec) was considered as an Independent, not as an Independent Liberal (his opponent in a straight fight was an official Liberal); Mr. A. W. Neill (Comox-Alberni, British Columbia) was considered as a Liberal, not as an Independent (his was one of the two constituencies in the Dominion which was not contested by the Liberal party). The Conservative vote includes that given to Independent-Conservatives; the Liberal vote includes that given to the Independent-Liberals and to Liberal-Progressives. The vote given to the various Farmer and Labour candidates in 1930 is listed under C. C. F. In those few constituencies which return two members, only half the total vote cast is counted.

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	Conserv.	*Liberal*	*C.C.F.*	*Recons.*	*S. C.*	*Other*
	%	%	%	%	%	%
1930	49.2	46.2	4.3	—	—	0.3
1935	29.6	46.8	8.9	8.7	4.2	1.8

The story begins to gather meaning when the constituencies are divided into three groups based on differences in the racial origin of the population: French constituencies, where 80 per cent or more of the population is of French origin; English constituencies, where less than 20 per cent is of French origin; Bilingual constituencies, the remaining ones. In the tables that follow, the number of constituencies carried by each party is given in brackets.

	Conserv.	*Liberal*	*C.C.F.*	*Recons.*	*S. C.*	*Other*
	%	%	%	%	%	%
French						
1930 (46)	42.3 (12)	57.2 (34)	—	—	—	0.5
1935 (44)	24.5 (—)	63.9 (44)	0.1	10.0	—	1.5
Bilingual						
1930 (42)	50.0 (25)	49.8 (17)	0.1	—	—	0.1
1935 (44)	31.4 (6)	54.6 (38)	3.5	8.3	—	2.2
English						
1930 (157)	50.9 (100)	42.0 (42)	6.8 (15)	—	—	0.3
1935 (157)	30.5 (34)	39.7 (97)	12.9 (7)	8.5 (1)	6.6 (17)	1.8 (1)

English Canada can be divided into two parts by the Manitoba-Ontario boundary. English constituencies east of this boundary number 86; those west, 70 (leaving out the Yukon, which will be disregarded from now on). All the French and Bilingual constituencies lie east of this boundary (with the exception of Provencher in Manitoba).

	Conserv.	*Liberal*	*C.C.F.*	*Recons.*	*S. C.*	*Other*
	%	%	%	%	%	%
English Eastern						
1930 (89)	56.7 (69)	42.6 (19)	0.6 (1)	—	—	0.1
1935 (86)	36.7 (25)	43.0 (60)	6.6	11.9	—	1.8 (1)
English Western						
1930 (67)	43.4 (30)	40.7 (23)	15.3 (14)	—	—	0.6
1935 (70)	21.7 (8)	35.0 (37)	22.0 (7)	3.5 (1)	16.0 (17)	1.8

It is clear that there was in 1935 no landslide of voters to Liberalism. The party barely increased its strength over the Dominion as a whole. Its considerable losses in English-speaking Western Canada were just a little more than balanced by an almost precisely equivalent increase of strength in the French part of Eastern Canada. In the English part of Eastern Canada its strength remained constant. If a loss or gain of six or seven per cent of the voters constitutes a landslide, we must speak of a landslide away from Liberalism in the West; a landslide to Liberalism in

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the French section of the East. This, of course, is only taking into account the net inflow to and outflow from the Liberal party. These net figures mask an inflow of Conservatives into the Liberal party and an outflow of Liberals into the parties of the left.[2] Indeed it might be said that the election has made the Liberal party a center party, with 23 per cent of the voters to its left, and 30 per cent to its right. One cannot, however, with any degree of assurance, call the Liberal party a center party, since it is probable that, if the advocacy of state intervention in economic life is a left-wing doctrine, the greater part of the Liberal party lies to the right of the greater part of the Conservative party.

The landslide away from Liberalism in the West merits further consideration, since changes in each of the four Western provinces were different:

	Conserv.	*Liberal*	*C.C.F.*	*Recons.*	*S. C.*	*Other*
	%	%	%	%	%	%
Manitoba[1]						
1930 (16)	49.0 (11)	40.2 (3)	8.8 (2)	—	—	2.0
1935 (16)	26.5 (1)	41.6 (13)	20.1 (2)	6.1	2.2	3.5
Saskatchewan						
1930 (21)	41.0 (8)	46.6 (11)	12.4 (2)	—	—	—
1935 (21)	18.8 (1)	40.8 (16)	20.1 (2)	0.7	18.4 (2)	1.2
Alberta						
1930 (16)	34.0 (4)	29.4 (3)	36.6 (9)	—	—	—
1935 (17)	16.9 (1)	21.2 (1)	13.0	0.7	46.8 (15)	1.4
British Columbia						
1930 (14)	49.6 (7)	43.3 (6)	6.5 (1)	—	—	0.6
1935 (16)	24.6 (5)	33.3 (7)	33.6 (3)	6.7 (1)	0.6	1.2

[1] Omitting Provencher.

In Manitoba, the Liberals slightly increased their strength; in Saskatchewan, they lost about 6 per cent of the voters; in Alberta and British Columbia, their losses were heavier and Liberal strength sank to about three-quarters of what it was in 1930.

Similarly, to talk of a landslide to Liberalism in the French section of

[2] The vote in the English constituencies of Ontario can be taken as an example:

	Conserv.	*Liberal*	*C.C.F.*	*Recons.*	*Other*
	%	%	%	%	%
1930	56.8	42.2	0.8	—	0.2
1935	37.0	41.2	8.1	11.9	1.8

It is reasonable to assume that at least a quarter of the vote polled by the minor parties in 1935 came from people who would have voted Liberal in 1930, and that the Liberals must have secured the support of a large number of former Conservatives in order to maintain their position at substantially the 1930 level. In the three far western provinces, however, it is probable that almost all the Conservative losses constituted gains for the minor parties and that the Liberals did not pick up many votes from the Conservatives to make up for their own losses to those parties.

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the East is too great a simplification. There was apparently no landslide to Liberalism either in the four French constituencies in Montreal,[3] which were unchanged by the redistribution act of 1935 and which were contested by both major parties in both elections, or in all the sixteen constituencies of Montreal city (both French and Bilingual):

	Conserv.	*Liberal*	*C.C.F.*	*Recons.*	*Other*
	%	%	%	%	%
4 French Constituencies in Montreal city					
1930 (4)	32.2	66.2 (4)	—	—	1.6
1935 (4)	10.3	64.9 (4)	0.9	22.3	1.6
All Montreal Constituencies (French and Bilingual)					
1930 (13)	42.1 (5)	57.0 (8)	—	—	0.9
1935 (16)	21.5 (4)	55.2 (12)	1.8	17.1	4.4

But there was a landslide to Liberalism in French Canada outside of Montreal. This is evidenced by the results both in the 11 rural[4] French constituencies, contested by both major parties in both elections,[5] and also in the other 37[6] constituencies in Quebec which lie outside Montreal.

	Conserv.	*Liberal*	*Recons.*	*Other*
%	%	%	%	%
Rural French Constituencies				
1930 (13)	47.8 (6)	52.1 (7)	—	0.1
1935 (11)	37.3	61.3 (11)	1.4	—
Remaining Constituencies outside Montreal (French and Bilingual)				
1930 (38)	45.8 (13)	54.2 (25)	—	—
1935 (37)	31.3 (1)	63.1 (36)	5.5	0.1

The main changes in Liberal voting strength in 1935 as compared with 1930 can be summarized as follows. In the three far western provinces of Saskatchewan, Alberta, and British Columbia, the Liberals lost heavily. In the English-speaking parts of Ontario, they suffered a very slight loss which was counterbalanced by gains in the Maritime provinces, so that over Eastern English Canada as a whole their strength remained constant. In French Canada outside Montreal, there was a landslide to the Liberals, which served to balance the net Liberal losses in English Canada. The net result over the whole of Canada was that the Liberals polled 46.8 per cent of the popular vote in the hour of their smashing victory in

[3] Hochelaga, St. Denis, St. Henry, St. James.

[4] A rural constituency is one which contains no town or city with a population of over 5,000.

[5] Bellechase, Berthier-Maskinongé, Dorchester, Kamouraska, Laval-Two Mountains, Lotbinière, Montmagny-L'Islet, Nicolet-Yamaska, Quebec-Montmorency, Richmond-Wolfe, Vaudreuil-Soulanges.

[6] Excluding Labelle, in which Mr. Henri Bourassa was returned by acclamation in 1930.

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1935 as compared with 46.2 per cent in the hour of their crushing defeat in 1930.

Obviously, the Liberal victory was the result, not of a Dominion-wide landslide towards Liberalism, but of a Dominion-wide landslide away from Conservatism. Over the Dominion as a whole, the Conservatives dropped to about three-fifths of the strength they had in 1930. The vote in English-speaking Canada constituted a new low for the Conservative party. In the three far western provinces, they lost more than half their strength; in Manitoba, not quite half; in the English-speaking parts of Ontario, less than two-fifths; in the English-speaking parts of the Maritimes, more than two-fifths. In rural French Canada, their losses were, comparatively speaking, negligible, though in any normal election they would seem great, for in the 11 purely rural French seats they lost only between a quarter and a fifth of their strength. In the French constituencies in Montreal, however, the party was almost annihilated, dropping from 32 per cent in 1930 to 10 per cent in 1935.

The Reconstruction party turned out to be an Eastern party, for it got almost 90 per cent of its votes in Eastern Canada. There its strength was greatest in the larger cities. In Montreal, it captured 17 per cent of the votes; in Toronto, 14 per cent; in Halifax, 13 per cent. In rural French Canada, it secured very few votes, but in a sample of 10 purely rural Southern Ontario English constituencies[7] it polled 13 per cent of the vote. In Manitoba and British Columbia, the Reconstruction party got only six or seven per cent of the vote. In Saskatchewan and Alberta, it ran only a few candidates.

The C.C.F., the other minor party, received its support mainly from Western Canada and entirely from English-speaking voters. It ran only three candidates in the city of Montreal and none in any of the other Quebec or Maritime seats. In Ontario, it put up candidates in 50 of the 82 seats but obtained very little support outside of the larger cities. In Toronto, it secured 15 per cent of the vote, thus doing slightly better than the Reconstruction party, but outside of the three larger cities in English-speaking Ontario (Toronto, Hamilton, and London) it secured only 4.6 per cent of the vote. In the West, it did much better, getting fairly equal support from city and country and obtaining in all a third of the vote in British Columbia and a fifth in Manitoba and Saskatchewan. By so doing, it demonstrated that it was the largest party in British Columbia and the second largest in Saskatchewan. In Alberta, however, it lost almost two-thirds of its strength to the Social Credit party.

[7] Bruce, Dufferin-Simcoe, Frontenac-Addington, Haldimand, Hastings-Peterborough, Middlesex-West, Muskoka-Ontario, Parry Sound, Wellington North, York North.

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The Social Credit party confined its attention to the four Western provinces, running candidates in all the constituencies in Saskatchewan and Alberta, but in only six in Manitoba and two in British Columbia. In Alberta, it broke the Farmer movement which had controlled provincial and federal politics in the province since 1921, and which had merged with the C.C.F. in 1932; in Saskatchewan, it captured two seats on the Alberta border.

There are a number of comments which might be made on the reasons for the landslide away from Conservatism in the general election of 1935. In the first place, it seems clear that the competing policies of the Liberal and Conservative parties had little influence on the voters, for the issues in the campaign were most obscure. Nor is it enough to say, as some Liberals do, that the election was in the main little more than a devastating protest against the personality of Mr. R. B. Bennett, the Conservative prime minister, since probably any Conservative prime minister would have been defeated in 1935. A shrewder politician might, however, have kept Mr. Stevens within the ranks of the Conservative party and thus have prevented the loss of a considerable number of seats and votes. It would appear, in fact, that the election did not constitute a decision on issues or personalities, but merely demonstrated the wisdom of the Liberal party's policy of having no policy.[8] The Liberals counted on the depression defeating any government, and the depression did what was expected of it. The voters voted against the party which had been responsible for governing them during the five lean years from 1930 to 1935.

[8] During the election, Mr. Mackenzie King, leader of the Liberal party, denied the charge that the Liberal party had no policy. He said in his radio broadcast of September 17: "The Liberal party, on the contrary, has very definite policies and proposals, but unlike those of Mr. Bennett and Mr. Stevens, they have not been especially concocted since the prorogation of Parliament. They have been set forth, time and again, over a period of years, and enjoy the unanimous support of a party united from coast to coast." He then proceeded to summarize the fourteen-point program he had put forward in the House of Commons on February 27, 1933. This program was not very precise. It consisted, in the main, of proposals on which all parties are agreed, such as the desirability of expanding Canada's external trade by negotiating "trade agreements with any countries willing to trade with Canada on a reciprocal basis," or of proposals of minor importance such as government acquisition of the shares of the central bank. Where Liberal policy differed from Conservative policy was that the Liberal party declared itself in principle to be opposed to increased state intervention in the economic life of the country, and to the granting of those increased powers to the executive which usually accompany state intervention. But the Liberal party did not make clear at the election to what particular aspects of state intervention they were opposed. Nevertheless, a number of voters undoubtedly supported the Liberals because they disliked restriction and control in economic legislation. Another point of difference between Liberal and Conservative policy was that the Liberals came out flatly for repeal of Section 98 of the criminal code which drastically restricts the rights of free speech and free discussion.

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The depression did not, however, do what the C.C.F. had expected of it. They thought it would not only defeat the Conservative government but also undermine Liberal strength. But, unhappily for the C.C.F., only four months after its formation, economic conditions in Canada began to improve, and they continued slowly to improve until the date of the election. The C.C.F. also suffered from competition from the Reconstruction and Social Credit parties.

On the whole, the C.C.F. and Reconstruction parties did rather worse than had been expected. Nevertheless, the total vote polled by all of the minor parties was very large. It constituted almost a quarter of the total vote cast in all Canada; 30 per cent of the vote in English Canada; 47 per cent of the vote in the three far western provinces. The movement towards a complete restoration of the old two-party system which had almost reached its goal in 1930 thus received a severe set-back.

Another important result of the election is that the two old parties have once again become clearly divided on racial lines. Not one of the Conservative members of the House of Commons comes from a French constituency. One-quarter of the Liberal members come from French constituencies. Eighty-five per cent of the Conservative members, but only 55 per cent of the Liberal members, come from English constituencies. What is more important, 70 per cent of the 106 constituencies in which the Liberals had an over-all majority are either French or Bilingual. Thus the main source of Liberal strength in the House of Common is French Canada. It is therefore to be expected that French Canada will play a dominant rôle in the framing of Liberal policy.

With the election of a Liberal government, French Canada has come into its own again.[9] As a token of its restoration to power, it was given five out of the 16 seats in the Liberal cabinet, as contrasted with three out of 21 in the preceding Conservative cabinet. It was also given, five weeks later, a very carefully worded statement on foreign policy by Mr. Ernest Lapointe, the acting prime minister. This statement of December 1, 1935, on the subject of the proposal initiated by Dr. Riddell, the Canadian advisory officer in Geneva, that League sanctions against Italy should be extended to include coal and oil, made it clear that the new Canadian government was moving in the direction of an isolationist foreign policy. If the international tension should increase, it is indeed possible that the

[9] Mr. Ernest Lapointe, leader of the French section of the federal Liberal party, is reported to have said at an election meeting in his constituency a month before the general election (*Le Soleil*, Quebec, Sept. 17, 1935): "Le demande encore à nos amis de s'unir, de laisser leurs petites dissentions de côté, pour nous assurer une majorité comme nous en avions une au parlement de 1921 à 1930. Il n'y a pas à dire, c'est nous, de la province de Québec, qui menions au parlement dans ce temps-là. Ca n'a pas été la meme chose depuis 1930. (Rires.)"

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two major parties will divide on the issue of the nature and extent of Canadian participation in overseas wars. The Liberals, with their present racial composition in the House of Commons, will tend towards an isolationist policy; the Conservatives, with only one of their number of French descent and a third of them coming from Toronto and Hamilton, which are centers of British imperial sympathy, will tend towards a policy of participation in major overseas wars in which Great Britain is seriously involved.

This explanation of Liberal foreign policy in the future as being determined by the racial composition of the party in the House of Commons is probably putting the cart before the horse, since the increase in Liberal votes in rural French Canada in the election of 1935 seems to have been in large measure due to the French-Canadian's belief that there is more danger of Canada actively participating in war under a Conservative than under a Liberal government. The Conservatives are blamed in French Canada for the Conscription Act of 1917, though in the passing and enforcement of that act the Conservatives received the support of the greater part of the English-speaking section of the Liberal party. In 1935, the danger of war in Europe apparently revived in French Canada the bitter memories of that old conscription controversy, and these memories rendered of no avail Mr. R. B. Bennett's pledge in the first of his radio broadcasts during the election campaign that "we will not be embroiled in any foreign quarrel where the rights of Canadians are not involved." In making this declaration, Mr. Bennett went much farther in the direction of isolation than did Mr. King, who merely pledged himself to consult Parliament before sending Canadian troops overseas. Actually, both pledges could be interpreted to mean very little. The French-Canadian, even if he gave serious consideration to Mr. Bennett's declaration, would therefore be justified in holding that, when an actual crisis arose seriously threatening British interests, Mr. Bennett would find it difficult to persuade himself or his party to refuse active Canadian participation, while there might well be more chance of a strong and united French contingent in the Liberal party forcing Mr. King to adopt this stand.

The adoption by the Liberal party of an isolationist foreign policy would mean the secession from it of a considerable section of its English-speaking supporters.[10] Already (December, 1935) there have been violent

[10] Of course, the Liberals might gain on the swings what they lost on the roundabouts. For if the Conservative party came out wholeheartedly in favour of active Canadian participation in major overseas wars in which Great Britain was seriously involved, it might lose to the Liberals not only a majority of its French-speaking supporters but also a considerable section of its English-speaking supporters.

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protests from prominent English-speaking Liberals against Mr. Lapointe's statement on oil sanctions. But it is not only on the issue of foreign policy that the Liberal party might split during this parliament. Its majority in the House of Commons is too great, and therefore difficult to control. It comprises within its membership in Parliament reactionaries from Quebec and radicals from Ontario and the West. If prosperity does not return, and if the government does not move far enough to the left to satisfy the demands of its left wing, a break might well occur within the next four or five years on some issue of economic or social policy. Such an issue might arise over the policy which the government should adopt to deal with the crisis in public finance which only a remarkable recovery in prosperity can avert. Certainly a split in the Liberal party—if not in the House, at least in the country—would seem inevitable if the right wing of the party based on French Canada dominates the economic policy of the government. Mr. MacKenzie King has in the past proved an expert in reconciling differences within his party, but perhaps within the next few years the differences between his followers will become so fundamental that no ingenious formula or bargain could reconcile them.

Should a section of the Liberal left wing eventually break away from its party on some economic issue, the size of the vote for the minor parties in the election of 1935 will take on added significance, for it might be possible to form an understanding, if not an alliance, between left-wing Liberals and the minor parties; or, as in England, the left-wing Liberals might gradually drift over to the camp of a third party.

The immediate future of the minor parties is thus of considerable importance. The Reconstruction party, having only one member in Parliament, and having no possibility of getting control of any provincial government, will probably cease to exist before long. Many of those who voted for it in the election of 1935 might then be persuaded to support some new party of protest against the methods of big business.

The C.C.F., with seven members of Parliament, and with the possibility of getting control of the government of British Columbia at the coming provincial election in 1937, will continue, for some years at least, to exist as an independent party. During the past few years, it has gained practical experience, and as a result it will probably revise its policy so that it will be better calculated to appeal to the English-speaking farmers in the East and to the urban lower middle class, the two groups to which the Reconstruction party made its greatest appeal.

The future of the Social Credit party is obscure. It captured control of the provincial government of Alberta in the provincial election of August 22, 1935, on a promise that within eighteen months every adult citizen of Alberta would receive from the provincial government a social credit dividend of $25.00 a month, while children would receive smaller, and

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disabled adults larger, monthly allowances. Mr. William Aberhart, the prime minister of Alberta, now declares that the serious state of the provincial finances will make it impossible for him to redeem his promise until he has been in power for two years. If, however, by August, 1937, the social credit dividends of $25.00 a month are not being paid—and there is little reason to believe they ever will be paid—it would seem probable that the bubble of social credit would burst, for the Alberta social credit movement is by its own declarations precluded from using the excuse that for social credit to be successful it is necessary first to secure a majority in the federal parliament. But it is quite possible that the evangelical Mr. Aberhart will by 1937 have been able to find a satisfactory scapegoat for his party's sins of omission. In that case, the social credit movement may spread over the prairies and may even constitute a threat to the major parties in all sections of the Dominion. In any event, Mr. Aberhart can try his luck in 1937 in the general election in Manitoba. That election should show whether his movement is waxing or waning.

Perhaps if the social credit government of Alberta, or the restoration of prosperity, fails to give economic security to the citizens of Alberta, if the Liberal government in Ottawa, or the restoration of prosperity, fails to give economic security to the citizens of Canada, we shall witness in four or five years' time, not a shifting of popular support from one democratic party to another, but the emergence of a strong fascist movement. For disillusionment with parliamentary democracy is undoubtedly growing in Canada, as in most countries which still retain democratic governments. In the first year of the depression, Canada put in power the Conservative party, which promised to end unemployment. On election day, 1935, one Canadian in ten was receiving some form or other of public relief. In the sixth year of the depression, Canada put in power the Liberal party, which declared that the choice before the voters was "King or Chaos."

Mr. King, the Liberal prime minister, has not yet provided evidence that the Liberal party is going to end the existing social chaos by putting into effect a program of "swift and far-reaching measures" drawn up "with a view to meeting the demonstrable needs of the [Canadian] situation.[11] If he does not put into effect such a program, and if a remarkable recovery in prosperity does not before the next election hide from the ordinary Canadian the reality of his economic insecurity, a substantial number of Canadians may, in that election, be swept off their feet by semi-fascist political movements appealing "to passion and violence in

[11] First manifesto on "Liberty and Democratic Leadership," published in England in February, 1934, with 150 signatures, among them, it is interesting to note, that of Mr. John Buchan, M.P., now Lord Tweedsmuir, governor-general of Canada (*The Next Five Years*, London, 1935, pp. 312–313).

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place of reason and persuasion,"[11] and advocating the establishment of dictatorship. The chances of this happening will, of course, be greatly increased if a strong fascist movement should develop in the United States; for fascism is a contagious creed.

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Propaganda Activities of British Political Parties. The recent national election in Great Britain offers another opportunity to study the methods and practices by which British political parties carry on their campaigns. One of the most interesting of these aspects of British politics is the character of the propaganda activities in which the parties engage—activities which present some contrasts to those with which Americans are familiar. In the United States, the regularity of elections accustoms the public to recurrent outbursts of noisy, high-pressure propaganda followed after elections by a silence almost unbroken by official party utterances. The parties of the United States are compelled to manufacture their campaigns out of whatever materials are at hand, seeking to whip up public sentiment without caring very much whether it rests upon sound convictions as to public policy or upon prejudice and passion. Party activities and strategy are determined almost exclusively by one cardinal principle—the effect upon the number of votes which the party can secure.

In Great Britain, of course, the consideration which governs party activity is exactly the same. But the different political and psychological conditions which accompany elections there result in different methods of party propaganda. National elections, for example, not infrequently come with little advance notice, and the party unprepared to make its appeal to the voters would be hopelessly out of the race. Consequently, the publicity departments of the major parties function continuously, increasing their output in quantity and variety on the eve of elections. And it is this continuous flow of party publicity which produces its relatively high tone and educational character. Appeals to tradition, sentiment, or prejudice may be a sufficient basis for a campaign which is to be followed by silence so unbroken that the public can forget much of what it was told. But the continuous flow of party publicity in Great Britain requires appeals which will win respect in periods of reflection and political inactivity, and such appeals must rest upon a basis more substantial than emotion and excitement.

Each of the three major parties of Great Britain rightfully claims to be a "national" party in the sense that it seeks to reflect in its program the interests of a majority of the people of the nation. This fact is sufficient to account for the great similarity in the propaganda methods of the

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parties. All three appeal to virtually the same electorate, and any publicity experiment found successful by one party is immediately adopted by its opponents. Each has its own competent and paid staff which turns out propaganda designed to appeal to every section of a variegated electorate—industrial workers, employers, unemployed, farmers, teachers, women, and even children.[1] The publications of the parties can be classified roughly into four types.

Publications for Party Workers. Each party attempts to supply its workers with the information which will enable them to anticipate and answer every question likely to arise in the course of conducting the local organizations. These materials range from the most technical instructions to regularly employed election agents to messages of exhortation and inspiration to casual party workers. Handbooks on registration and election procedure, suggestions for forming political clubs, booklets on elementary parliamentary law, summaries of election laws, warnings as to forbidden practices, election statistics, and other pieces of useful information are urged upon the local canvassers.[2] In addition, the central office supplies local headquarters each month with the very latest suggestions and advice. Study guides relating to current questions are also sent to local groups which are energetic enough to hold occasional education conferences. For the more active and ambitious party workers, perhaps the *Notes for Speakers* are the most interesting and most important publications. These are issued fortnightly on cards suitable for platform use and contain the arguments, quotations, and statistics which the local worker finds it difficult to secure for himself.[3]

Periodical Publications. Each party issues several regular periodicals. Of these, the most important are the monthly magazines designed to appeal to the general public—the Conservative *Home and Empire*, *The Liberal Magazine*, and *The Labour Magazine*. The magazines are very

[1] The publicity department of the Conservative and Unionist central office is located at Palace Chambers, Westminster S. W. 1, and is directed by Sir Patrick Gower. The Liberal party maintains publicity offices at 21 Abingdon Street, London, S. W. 1, with Mr. Harold Storey as general manager. The publicity division of the Labor party is in Transport House, Smith Square, London, S. W. 1, in which all of the central offices of the party are located, and is under the direction of Mr. W. W. Henderson.

[2] The publications of this type issued by the several parties are very similar. The following publications supplied to workers by the Conservative headquarters are typical: *Constituency Organization; Handbook for Organizers and Workers; Handbook for Young Britons; How to Start and Manage a Club; Women's Unionist Organization; Junior Imperial League.*

[3] There are usually from six to eight cards in each set, supplied at an annual subscription price of seven to ten shillings. During campaigns, the demand for notes for speakers is large. In the short autumn campaign of 1931, the central office of the Labor party issued 123,610 cards.

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much alike.[4] They are edited to catch the attention of the largest possible cross-section of the reading public. They contain reviews of public events, feature articles and speeches by the prominent men of the party, news and personal sketches of party leaders, and even special pages of interest to women and children. In view of their admitted partisan sources, these magazines secure a surprisingly large circulation. *Home and Empire,* for example, has had as many as 250,000 subscribers. Each party also publishes a number of magazines for promoting special causes or appealing to particular groups and interests. Such are the *Labour Woman;* the *Imp,* monthly publication of the Conservative Junior Imperial League; the *Liberal Woman's News,* and the *Liberal Council Notes,* issued monthly in the interest of free trade.[5] The Labor party publishes jointly with the Trades Union Congress a magazine for its League of Youth called *The New Nation.* The same groups also issue *The New Clarion* and *The Citizen,* magazines devoted to the general cause of socialism. The *Labour Bulletin* and the *Industrial Review,* because of financial difficulties, were merged with *The Labour Magazine* in 1933.

Propaganda and Campaign Publications. These are naturally the most voluminous, the most spectacular, and from the standpoint of the voting public the most important, publicity activities of the parties. Every type of appeal to reason, tradition, patriotism, and personal interest is crystallized in pamphlets, papers, posters, leaflets, and advertising. As election day approaches, the only limits to the quantities of such materials are the financial and physical resources of the hard-pressed publicity offices and the capacity of local party organizations to secure adequate and effective distribution.[6] While the character of much of this propaganda varies with the issues before the country, no small proportion of it is a reiteration of the traditional viewpoints of each party.

To the Labor party must go credit for an innovation in propaganda publications which has raised the standard of party publicity and has

[4] *Home and Empire,* it must be said, is decidedly less sober than its rivals in appearance and political emphasis. This no doubt accounts for its greater popularity.

[5] All parties follow the practice of sending copies of their periodicals unbound to local party headquarters, where additional material of interest to the local constituencies is incorporated. Frequently as many as eight pages of local news and advertising may be added to a single issue.

[6] While it is difficult for even the publicity departments of the parties to estimate accurately the quantity of matter issued, it is undoubtedly true that in volume of publicity the Conservative party stands first, Labor second, and the Liberal party third. The following report of the activity of the Labor party in the short autumn campaign of 1931, requiring as it did the hasty preparation of much new material, gives some idea of the volume of propaganda: election manifesto, 5,300,000 copies; leaflets, 21,000,000 copies of 32 different leaflets (6,600,000 of seven kinds free); posters, 80,800, of seven different kinds; speakers' notes, 123,610 cards; *Labour Elector,* 75,000 copies; pamphlets, 15,000 copies of three different kinds.

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compelled a certain amount of imitation by Liberals and Conservatives. These publications are called "Policy Pamphlets." They are popularly-written one- and two-penny pamphlets (20 to 30 pages) which set forth in considerable detail the attitude of the Labor party on the principal economic and social problems before the British people. Not less than a dozen of these pamphlets have been prepared, with such titles as "Currency, Banking, and Finance," "The National Planning of Transport," "Labour's Foreign Policy," "The Land and the National Planning of Agriculture," etc.[7] While the political philosophy of the Labor party lends itself to a more doctrinaire treatment of such problems than do the attitudes of the older parties, the latter have been compelled to state their views more explicitly than before in order to compete with the vigor of Labor propaganda.

Reference and Research Publications. Each of the parties is likewise engaged in directing research into the perennial problems of British politics and in presenting the results as matters both of partisan interest and of public service. This type of activity is unknown in American party circles. It is carried on within the British parties not so much for the purpose of immediately promoting party advantages as in the hope of uncovering facts on which to base national policies. In these publications, party bias is toned down or eliminated and statistics, memoranda, and reference materials are presented to the general public as well as to party members. The Liberal party, inspired by Mr. Lloyd George, has been especially active in sponsoring such research. *Coal and Power* (1924), *The Land and the Nation* (1925), *Towns and the Land* (1925), and *Britain's Industrial Future* (1928) are studies presented by Liberal leadership. So important have been the results that one author has remarked that the service of the Liberal party to Great Britain has taken a new channel: "It provides programs for non-Liberal governments."[8]

The best known of the reference works published by the parties are their annual year-books. These are useful and quite reliable collections of current statistical, biographical, political, and general information, selected, however, with a view to party interest.[9]

The problem of financing party publications is tied up with the prob-

[7] In 1933, a year in which only a few by-elections were contested by the parties, the Labor publicity department sold over 150,000 copies of its more substantial pamphlets. *Report of the Labour Party*, 1933, p. 52.

[8] Buell, Chase, and Valeur, *Democratic Governments in Europe*, p. 153. Under this classification should be mentioned several Conservative publications relating to India and the Empire, and a number of Labor projects on local government, unemployment, and the cotton industry.

[9] The *Labor Yearbook* temporarily suspended publication in 1933 because of financial difficulties. The Conservative *Constitutional Yearbook* is the oldest of these publications and has an annual circulation of three to four thousand.

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lem of securing effective distribution. Most of the more serious pieces of propaganda are sold to local party organizations or directly to the public. Hence the funds available for the "literature accounts" depend upon circulation. This fact gives the party in power an immense advantage. The public looks upon its publications as semi-official in character, its leaders occupy the political and social spotlight, and their utterances have a news value which the leaders in the other parties can hardly achieve. The party in power, except in campaign years, usually pays all publicity expenses from the sale of its literature, and may even show a profit.[10] Each of the parties relies upon its local organizations and clubs to secure the maximum distribution of its publications. Central offices are urging each local constituency to appoint a "literature secretary." This plan is being pushed by the Labor party in particular, and is meeting with some success as a means of increasing the distribution of party publications.

HAROLD W. STOKE.

University of Nebraska.

[10] In the election of 1929, which may be regarded as more nearly normal than the subsequent elections, the Labor party had an expenditure for literature of £33,001. Except for £1,597, this amount was secured entirely from the sale of publications.

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Dean Walter J. Shepard, of Ohio State University, president of the American Political Science Association in 1934, died at his home in Columbus on January 25. A memoir will appear in the next issue of the REVIEW.

Dr. Charles A. Beard has been appointed by President Roosevent a member of the United States Constitution Sesquicentennial Commission.

Professor Manley O. Hudson, of the Harvard Law School, was nominated from several countries in December and January to succeed ex-Secretary Frank B. Kellogg on the bench of the World Court.

On January 1, Dr. Charles R. Erdman, Jr., former assistant professor of politics in Princeton University, was installed as mayor of the borough of Princeton. He had previously served two years in the borough council.

Professor Jerome G. Kerwin has been appointed dean of students in the division of the social sciences at the University of Chicago.

Dr. Milton V. Smith, formerly of the department of political science at Dartmouth College, has accepted a position as head of the personnel classification unit of the Tennessee Valley Authority.

Mr. Henry P. Seidemann, on a year's leave from the Institute for Government Research, Brookings Institution, is serving as administrative officer in the Social Security Board. Dr. Frederick F. Blachly has accepted a temporary appointment with the National Recovery Administration, and is making an intensive study of industrial codes.

Professor Martin L. Faust, of the University of Missouri, has been appointed special representative of the U. S. Department of Labor for the purpose of supervising the examinations for the Missouri state employment service.

Mr. Frank Bane, former director of public welfare in Knoxville, Tennessee, and later for the state of Virginia, has entered upon his duties as executive director of the national Social Security Board. During the past four years he has been director of the American Public Welfare Association, a post in which he has been succeeded by Mr. Fred K. Hoehler, recently director of public welfare for Cincinnati and Hamilton county, Ohio.

Professor Charles J. Rohr, of Trinity College, Hartford, Connecticut, has been appointed research consultant to the Commission on the Re-

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organization of State Departments of Connecticut. As his part in the investigation, Dr. Rohr will study the organization and activities of the offices of governor, lieutenant-governor, secretary of state, and attorney-general, and also the military establishment.

Dr. Paul V. Betters has resigned his position as executive director of the American Municipal Association to devote his time exclusively to the executive directorship of the United States Conference of Mayors. Mr. Clifford W. Ham, director of field service, has been appointed acting director of the American Municipal Association.

After serving two years as director of welfare in Louisville, Dr. Kenneth P. Vinsel has returned to the University of Louisville as head of the department of history and political science. Dr. Francis O. Wilcox has returned from Geneva, where he studied under fellowships from the Carnegie Endowment for International Peace and the Graduate Institute of International Studies, and has been appointed assistant professor of political science in the same institution.

Dr. Herman G. James, for many years professor of political science at the University of Texas and later at the University of Nebraska, recently resigned the presidency of the University of South Dakota to accept the presidency of Ohio University, in which office he was formally installed on November 15.

Mr. John H. Thurston, former fellow at the Brookings Institution and assistant investigator in the Personnel Office of the Farm Credit Administration, has been appointed instructor in political science at Northwestern University.

At the middle of January, President Robert M. Hutchins, of the University of Chicago, announced a grant of one million dollars from the Spelman Fund for the erection and maintenance of a national headquarters building for the group of public administration organizations at present housed at 850 East 58th St., Chicago. The new structure is expected to be ready for occupancy in eighteen months.

Dr. Earl H. DeLong, of the department of political science of Northwestern University, has been appointed manager of the Northwestern University Reviewing Stand, a fifteen-minute broadcast over station WGN at 10 A.M., central standard time, every Sunday morning. Each program is an extemporaneous dialogue between two members of the Northwestern faculty, who comment on political, economic, and social problems and situations of current interest. This program is a feature of the University Broadcasting Council which has been organized and is in part supported by Northwestern University, DePaul University, and the

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University of Chicago to develop and supervise the radio offerings of these institutions.

Professor Arthur M. Cathcart, of Stanford University, delivered a series of three lectures on current constitutional problems as part of the program of the Institute of Public Affairs at the University of Washington on October 23–25, 1935. The first quarterly Symposium on World Affairs organized by the Bureau of International Relations at the same institution was held on November 8. The general subject was "World Security —Collective System versus Balance of Power." Professor H. A. Angus, of the University of British Columbia, and Senator James P. Pope, of Idaho, delivered addresses.

Under the auspices of the department of government of the University of Texas and the Committee on Policy of the American Political Science Association, a conference on civic training in the public schools of Texas was held at Austin on December 14.

The thirteenth session of the Institute of World Affairs was held at Riverside, California, on December 15–20. Professor Charles E. Martin, of the University of Washington, served as director, and a large number of subjects relating to political and economic questions were discussed.

Under the direction of Professor John P. Senning, a conference on political education in Nebraska was held at Lincoln on December 6–7. Among those who appeared on the program were Mr. Rall Grigsby, director of the Des Moines Public Forum, President Rowland Haynes, of the Municipal University of Omaha, Professor Geddes W. Rutherford, of Iowa State College, and Mr. James E. Lawrence, editor of the *Lincoln Daily Star*.

A conference sponsored by the National Institution of Public Affairs and the Committee on Training for the Public Service at Harvard University, and convened for the purpose of surveying the standards by which administrative and executive ability is being evaluated or determined at the present time, was held at Washington on December 6–8. Some twenty persons participated, and an informal committee headed by Professor Carl J. Friedrich of Harvard was appointed to carry forward certain further activities contemplated.

The U. S. Office of Education is coöperating with the American Council on Education in listing all motion pictures which have educational value. Persons owning or having custody of such films are requested to report the fact to the Council at 744 Jackson Place, Washington, D. C.

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On December 10, it was announced that Harvard University had received from Mr. Lucius N. Littauer, for ten years a member of Congress from a New York district, the sum of two million dollars to be devoted to the establishment and maintenance of a graduate school of public administration. Under terms of the gift, a building is to be erected, a faculty selected, and work planned not merely to train technical specialists but "to educate men in a broad way for public service." The first step toward launching this highly significant enterprise has been the appointment by President Conant of a commission of five persons charged with making "a comprehensive report on university education for public service and with recommending plans for the organization of the new school." President Harold W. Dodds, of Princeton University, has accepted the chairmanship of this group, and the other members will be Dr. Leonard D. White, U. S. civil service commissioner, Professor William B. Munro, formerly of Harvard and now of the California Institute of Technology, Dean Wallace B. Donham, of the Harvard Graduate School of Business Administration, and Professor Harold H. Burbank, of Harvard, with Professor Morris B. Lambie, formerly of the University of Minnesota but now of Harvard, serving as secretary.

Mr. Richard Welling, of the National Self-Government Committee, 80 Broadway, New York City, asks that the following communication be brought to the attention of teachers of political science: "It is generally admitted that our theory of government is far ahead of our practice. Among voters there is a well known sense of frustration and lack of knowledge of the political game as played by the politicians. We are convinced that classes in government should acquire an intimate knowledge of the methods and techniques of present-day politics along the lines of the courses given by Professors McGoldrick of Columbia University and Jones of Toledo University, where students actually take part in political campaigns. What sides they take is not the point, but how doorbells are rung, registration secured, meetings held, and finally a report forecasting the vote. At the suggestion of Professor E. Pendleton Herring of Harvard, we are sending this inquiry to professors of political science interested in teaching practical politics. Professor Herring writes: 'Could not your committee advance the movement by acting as a clearing house of information for those teaching party government and municipal politics?' It is our plan to bring to the attention of those giving courses on political parties the methods that various instructors have found most effective in acquainting students with the realities of political life, and we would appreciate an account of your work along those lines."

The fourth quinquennial Anglo-American Historical Conference will be held in London on July 6–11, 1936, at the Institute of Historical Re-

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search of the University of London. The following sections have been established: Medieval History, chairman, Professor F. M. Stenton, Reading; Diplomatic History, chairman, Professor C. K. Webster, London; History of Parliamentary Institutions, chairman, Dr. A. F. Pollard, London; Economic History, chairman, Professor J. H. Clapham, Cambridge; British Colonial History, chairman, Professor Sir Herbert Richmond, Cambridge; British Local History, chairman, Professor A. Hamilton Thompson, Leeds; Slavonic History, chairman, Professor R. W. Seton-Watson, London; Historical Relations between Europe and the American Continents, chairman, Professor H. Hale Bellot, London; Oriental History (if sufficient demand is shown), chairman, Professor H. H. Dodwell, London. Information concerning the Conference may be had from the secretary, Institute of Historical Research, Malet Street, London, W.C. 1, or from Waldo G. Leland, 907 Fifteenth Street, Washington, D. C., an American member of the Committee.

The International City Managers' Association held its twenty-second annual conference at Knoxville, Tennessee, on October 21–23, with 106 managers in attendance. Three other national governmental organizations met in Knoxville at the same time: the American Municipal Association, the Municipal Finance Officers' Association of the United States and Canada, and the National Association of Assessing Officers. The four organizations held a joint meeting at which "The Human Objective of Administration" was discussed by Luther Gulick of the Institute of Public Administration, Louis Brownlow of the Public Administration Clearing House, and Earle Draper of the Tennessee Valley Authority. The managers devoted an entire session to a discussion of personnel problems, which was led by G. Lyle Belsley, of the Civil Service Assembly of the United States and Canada. Another session devoted to federal-city relationships was addressed by Donald C. Stone, of the Public Administration Service, Clifford W. Ham, of the American Municipal Association, and Joseph P. Harris, of the Public Administration Committee of the Social Science Research Council. Professional matters were discussed extensively, and an entire session was devoted to a consideration of public reporting, under the chairmanship of R. M. Dorton, city manager of Long Beach, California. The City Managers' Association has later announced the publication of a report by its training committee, including the recommendations of the Association with respect to pre-entry education, apprenticeships and interneships, and in-service training. Copies may be secured from the Association at 850 East 58th Street, Chicago.

The first regional conference of New York, Pennsylvania, and New Jersey commissions and committees on interstate coöperation was held in New York City on November 22–23. Commissions or legislative com-

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mittees on interstate coöperation now exist in twenty-three states, and are authorized "to carry forward the participation of the state as a member of the Council of State Governments, both regionally and nationally, to confer with officials of other states, to formulate proposals of coöperation between states, and to organize and maintain governmental machinery for such purposes." The commissions are composed in each case of fifteen members—five administrative officials appointed by the governor (usually members of his cabinet), five senators, and five members of the assembly. The purpose of the New York meeting was to consider immediate steps for hastening interstate solution of such problems as water pollution, milk control, crime prevention, and other pressing regional problems, and also to discuss plans for establishing on a permanent basis a regional office to coördinate the work of the various interstate commissions in the New York area. The conference heard such authorities as Joseph P. Day, chairman of the Interstate Sanitation Commission, Attorney-General John J. Bennett, vice-chairman of the Interstate Commission on Crime, and Peter G. Ten Eyck, chairman of the Governors' Committee on Interstate Milk Relations, discuss proposals for integrating the work of their respective agencies with the commissions on interstate coöperation. Of particular interest was a paper on "Interstate Tax Agreement through Compacts and Reciprocal Legislation" by Mark Graves, president of the New York state tax commission. Another high-light of the conference was a report on "A Regional Research Program for Commissions on Interstate Coöperation" by Dr. Luther Gulick, newly appointed director of the New York State Educational Inquiry, and director of the Institute of Public Administration. Other political scientists who spoke at the meeting included Professor Charles E. Merriam, of the University of Chicago, Senator Henry W. Toll, executive director of the Council of State Governments, and Professor Emerson D. Fite, of Vassar College. Dr. Fite attended the conference as a member of the New York assembly. Professor Merriam, as a member of the National Resources Committee, pointed out the possibility of coördination between the newly established regional office of the Council of State Governments and the "reorganization of the one hundred or more different types of federal field offices." In concluding his progress report on the movement for interstate coöperation, Senator Toll made the interesting observation that "there is a newly developing field of interstate government. We are all accustomed to federal government; we are accustomed to state government; and we are beginning to realize that there are certain problems which we know cannot be administered without the joint and voluntary regional action of the states concerned. . . . And so, in those newly developing and to some extent newly recognized fields of interstate coöperation, in this endeavor as a whole—the creation of interstate commissions,

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the organization of a Council of State Governments with a regional secretary, and the development of a central secretariat in Chicago to serve as the clearing house for all of these state commissions—we have the beginning of machinery for effective interstate coöperation."—HUBERT R. GALLAGHER.

Series 13 of the "You and Your Government" broadcasts, presented by the Committee on Civic Education by Radio and the American Political Science Association in coöperation with the American Academy of Political and Social Science, is given over an NBC-WEAF nation-wide network every Tuesday at 7:45–8:00 P.M., Eastern standard time (beginning April 28, Eastern daylight-saving time). All speakers are introduced by Dr. Thomas H. Reed. The May issue of the *Annals of the American Academy of Political and Social Science* will contain a series of articles in which the authors will treat more fully the topics which they discuss in the radio programs. Preprints of each complete article will be available immediately following its corresponding broadcast, for fifteen cents each, or $2.00 for the series, including a reading list. The reading list may be purchased separately for fifteen cents. Special prices on quantity orders for individual articles, reading lists, or complete series, will be furnished on request. Send all orders and inquiries to the American Academy of Political and Social Science, 3457 Walnut Street, Philadelphia, Pa. The complete series is as follows:

February 4: The Constitution as a Stabilizing Factor in American Life
David P. Barrows, Professor of Political Science and former President, University of California

February 11: Curbing the Court
Edward S. Corwin, Professor of Jurisprudence, Princeton University

February 18: Property Rights as Obstacles to Progress
Francis W. Coker, Professor of Political Science, Yale University

February 25: The Constitution as the Guardian of Property Rights
William J. Donovan, former Assistant U. S. Attorney-General

March 3: Freedom of the Press
Chester H. Rowell, Editor, *San Francisco Chronicle*

March 10: Powers of the National Government
Walter F. Dodd, Lawyer; Professor of Law, Yale University

March 17: Administrative Lawmaking
O. R. McGuire, Counsel to U. S. Comptroller-General; Chairman, American Bar Association's Committee on Administrative Law

March 24: The Constitution and the New Deal
Donald Richberg, Attorney; former Administrator, N.R.A.

March 31: The Spirit of the Constitution
William Hard, Publicist

April 7: A Socialist Looks at the Constitution
Norman Thomas, Director, League for Industrial Democracy; Socialist Candidate for President, 1928 and 1932

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April 14:	Getting a New Constitution W. Y. Elliott, Professor of Government, Harvard University
April 21:	The Constitution and the States Albert C. Ritchie, former Governor of Maryland
April 28:	A Unified Economy and States Rights James Hart, Professor of Political Science, John Hopkins University
May 5:	Regional Governments for Regional Problems William B. Munro, Professor of History and Government, California Institute of Technology
May 12:	The Constitution and Social Security John G. Winant, Chairman, Social Security Board; former Governor of New Hampshire
May 19:	The Rights Reserved to the States and the People William L. Ransom, President, American Bar Association
May 26:	The Delegation of Powers John Dickinson, Assistant U. S. Attorney-General: Professor of Administrative Law, University of Pennsylvania
June 2:	Personal Liberty John W. McCormack, Member of Congress, 12th Massachusetts District Roger N. Baldwin, Director, American Civil Liberties Union
June 9:	The Living Constitution Charles A. Beard, Author

The Historical Records Survey. In November, the President approved two projects of considerable importance to political scientists, as well as to students of law, economics, sociology, and history. One of these projects authorizes a survey of federal government archives located outside of the District of Columbia. The other is a survey of state and local historical records. For each of the surveys the sum of $1,195,800 has been made available.

These two surveys have been made possible by a realization on the part of Mr. Harry L. Hopkins and his aides that governmental agencies have heretofore, with few exceptions, made very inadequate provision for the preservation, inventorying, and utilization of the records of their multifarious and important activities. Moreover, it has been felt that the existing treasures of manuscript collections should be made more widely known. Many manuscript sources important for an adequate record of our historical development are daily disappearing into trash bins and kitchen fires, or are being destroyed by moisture, mice, and young children. Much work needs to be done to inventory the records which are out of immediate danger of destruction; there is also a great need of education, to arouse public interest in the matter of rescuing records from the dangers which hound them. This is a work in which everyone can participate. There is hardly a family in the land without papers in its

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possession which might some day be of importance to the interpretation of some phase of national or local history.

The Federal Archives survey is sponsored by the Works Progress Administration, and is administered by the National Archives, an establishment of the federal government recently created by Congress and endowed with authority over all archives of the United States government. The state and local survey is administered by the Works Progress Administration as part of the activities of the division of professional and service projects.

As national director of the Survey of State and Local Historical Records, I should like to set forth the purposes of the survey, and point out ways in which it may be useful to political scientists. The purposes of the Historical Records Survey, as we prefer to call it, may be stated as follows: (1) to list the records of state, county, and other local agencies of government in the forty-eight states, to the extent that such work has not already been done; (2) to issue a master inventory of such records as are listed by this Survey and as have been previously listed; (3) to obtain a general description of all public, semi-public, and private manuscript collections in the United States; (4) to publish such information concerning manuscript collections; (5) to copy the existing catalogues of manuscript collections, and to place such copies in the Library of Congress for future work in preparing a Union List of Manuscripts; (6) to copy a limited number of items found in public records and in manuscript collections, and to distribute them among research institutions; and (7) to stimulate widespread interest in placing family papers in historical society libraries and other places where they will be preserved and eventually made available to students.

It is obvious that not all of these objectives can be realized completely with the limited funds available. We intend to undertake some work in every state, but many factors which have come to my attention indicate that in some states we can expect to accomplish more of the work which needs badly to be done than in others. Naturally, existing local interests is a weighty factor in the setting up of projects for this work, as the period between now and June 30, when the projects are due to end, is insufficient to permit us to await the results of a campaign to arouse public interest.

Political scientists have a deep interest, I believe, in the work which our Survey is undertaking. The records, if we will read them aright, reveal the history of our political institutions and tell the dramatic story of the expansion of government functions.

I extend an invitation to political scientists, among others, to offer suggestions as to how our Survey can frame its detailed objectives to the advantage of the research in which they are interested. It is expected

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that the greatest service which the Survey can render, in response to particular suggestions, is the collection of special types of information concerning the records of individual local communities. If researchers at the University of Chicago are interested in local population shifts, our workers in Cook county might pay particular attention to land tenure maps and records. It would require no effort to give many such hypothetical examples. Local contacts with Survey workers might also result in a better opportunity to carry on research in the records than would be offered at other times, when bundles of papers will be tied together and stacked in piles again, there to build up another accumulation of dust.

Suggestions addressed to my office at 1500 I St., N. W., Washington, D.C., will be handled directly or by reference to the proper local representative of the Survey.—LUTHER H. EVANS.

Thirty-first Annual Meeting of the American Political Science Association. Accepting a cordial invitation from the Southern Political Science Association to hold the 1935 annual meeting in the South, and embracing the opportunity to join not only with the organization named but also with the American Historical Association in a number of sessions, the Association met in Atlanta on December 26–28 and participated in meetings with the historians at Chattanooga on December 29–30. The registered attendance was 315, as compared with 310 at Chicago in 1934, 360 at Philadelphia in 1933, and 200 at Detroit in 1932. The program, devoted largely, as in the more recent past, to round table discussions, was as follows:

Thursday Evening, December 26

GENERAL SESSION

(JOINT MEETING WITH THE SOUTHERN POLITICAL SCIENCE ASSOCIATION)

Presiding officers: Francis W. Coker, Yale University, President of the American Political Science Association; J. W. Manning, University of Kentucky, President of the Southern Political Science Association

General topic: "THE FUTURE OF THE SOUTH."

Speakers: Howard W. Odum, Kenan Professor of Sociology and Director of the Institute for Research in Social Science, University of North Carolina—"The Promise of the South: A Test of American Regionalism;" Peter Molyneaux, Editor, *Texas Weekly*—"A Place in the Sun for the South."

Friday Morning, December 27

FIRST SESSIONS OF ROUND TABLES 1–6

(1) "CONSTITUTIONAL REFORM."

Chairman: W. Y. Elliott, Harvard University

Discussion leaders: Charles G. Haines, University of California at Los Angeles; Edward S. Corwin, Princeton University; Charles Aikin, University of Cali-

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fornia; Oliver P. Field, University of Minnesota; Charles A. Beard, New Milford, Conn.; John D. Larkin, College of the City of New York; Charles Fairman, Williams College; Miss Jane Clark, Barnard College; Carl J. Friedrich, Harvard University.

(2) "Toward a Career Service System."

Chairman: Luther Gulick, Director, Institute of Public Administration

Discussion leaders: Louis Brownlow, Director, Public Administration Clearing House; Harry B. Mitchell, President, United States Civil Service Commission; Charles P. Messick, President of the Civil Service Assembly; G. Lyle Belsley, Director of the Civil Service Assembly; Lewis Meriam, University of Chicago; William E. Mosher, Federal Power Commission, Washington, D. C.; Otis T. Wingo, Jr., National Institution of Public Affairs; Emery E. Olsen, American University, Washington, D. C.; Lloyd M. Short, University of Minnesota; Lyman S. Moore, Institute for Training in Municipal Administration; Harold W. Dodds, President, Princeton University; H. Eliot Kaplan, Secretary, Civil Service Reform Association; Samuel C. May, University of California.

(3) "The Crop Control Policy, with Special Reference to the South."

Chairman: Wilson Gee, University of Virginia

Discussion leaders: Cully A. Cobb, Director, Division of Cotton, AAA; J. B. Hutson, Director, Division of Tobacco, Rice, Sugar; and Peanuts, AAA; William Edgar Byrd, Jr., Assistant to the Administrator, AAA; N. C. Williamson, Lake Providence, Louisiana, President, American Cotton Coöperative Association; J. W. Gaston, Duncan, South Carolina, Vice-President, South Carolina Cotton Growers' Association; Walter Parker, Anderson-Clayton & Co.; Donald Comer, President, Avondale Mills, Birmingham, Alabama; Harold Hoffsomer, Alabama Polytechnic Institute; Charles W. Pipkin, Louisiana State University; H. C. Nixon, Tulane University.

(4) "The Depression and State and Local Finance."

Chairman: J. Alton Burdine, University of Texas

Discussion leaders: W. Brooke Graves, Temple University; Thomas H. Reed, University of Michigan; George C. S. Benson, Managing Editor, *State Government;* James W. Martin, University of Kentucky, Research Director, Interstate Commission on Conflicting Taxation; Wylie Kilpatrick, Federal Emergency Administration of Public Works; R. L. Carlton, Louisiana State University.

(5) "Government Operation of Economic Enterprises."

Chairman: Marshall Dimock, University of Chicago

Discussion leaders: Arthur E. Morgan, Chairman of the Board, TVA; Arthur Macmahon, Columbia University; George Graham, Princeton University; Orren C. Hormell, Bowdoin College; Frederick L. Bird, Dun & Bradstreet, Inc.; Herbert Emmerich, Executive Officer, Farm Credit Administration; R. J. Swenson, New York University; Colonel Henry M. Waite, Cincinnati, Ohio; Paul W. Wager, Assistant Comptroller, TVA; C. A. Dykstra, City Manager, Cincinnati, Ohio; Arthur N. Holcombe, Harvard University; Luther Gulick, Institute of Public Administration, New York City; John M. Gaus, University of Wisconsin; Raymond Zimmermann, Home Owners' Loan Corporation; John McDiarmid, University of Chicago.

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(6) "GOVERNMENT AND SOCIAL SECURITY."

Chairman: Thomas H. Eliot, General Counsel, Social Security Board, Washington, D. C.

Discussion leaders: Max Lerner, Sarah Lawrence College; Senator Henry Parkman, Jr., of Massachusetts; Merrill Murray, Assistant Director for Unemployment Compensation, Social Security Board; Smith Simpson, University of Pennsylvania.

Friday Noon, December 27

SUBSCRIPTION LUNCHEON

Presiding officer: Sarah Wambaugh, Cambridge, Mass. Third Vice-President of the Association

Topic: "Democracy and Adult Political Education."

Speaker: Charles West, Under-secretary of the Interior, Washington, D. C.

Friday Afternoon, December 27

FIRST SESSIONS OF ROUND TABLES 7–11

(7) "THE UNITED STATES AND NEUTRALITY."

Chairman: Lawrence Preuss, University of Michigan

Discussion leaders: Quincy Wright, University of Chicago; A. Vandenbosch, University of Kentucky; Kenneth Colegrove, Northwestern University; C. E. Martin, University of Washington; William Maddox, Harvard University; Harold Quigley, University of Minnesota; Clyde Eagleton, New York University; Malbone W. Graham, Jr., University of California at Los Angeles; D. F. Fleming, Vanderbilt University; Joachim von Elbe, Institut für ausländisches öffentliches Recht und Völkerrecht, Berlin.

(8) "THE FUTURE OF THE PARTY SYSTEM."

Chairman: Russell M. Story, Pomona College

Discussion leaders: S. D. Myers, Jr., Southern Methodist University; J. T. Salter, University of Wisconsin; Frank Prescott, University of Chattanooga; J. R. Starr, University of Minnesota; Peter H. Odegard, Ohio State University; James K. Pollock, University of Michigan; George C. S. Benson, American Legislators' Association; Lyle C. Belsley, Director, Civil Service Assembly of U. S. and Canada; Max Ascoli, New School for Social Research; Wallace S. Sayre, New York University; Warner Moss, University of Virginia; William C. Casey, Columbia University; Sigmund Neumann, Wesleyan University; Keith Clark, Carleton College.

(9) "THE FUTURE OF AMERICAN FEDERALISM."

Chairman: Claudius O. Johnson, State College of Washington

Discussion leaders: W. Brooke Graves, Temple University; Jane Perry Clark, Barnard College; Joseph P. Harris, Social Science Research Council; George C. S. Benson, Managing Editor, *State Government;* Edward S. Corwin, Princeton University; Rodney L. Mott, Colgate University.

(10) "EMPLOYER-EMPLOYEE RELATIONS IN RUSSIA, ITALY, AND GERMANY."

Chairman: Johannes Mattern, Johns Hopkins University

Discussion leaders: B. W. Maxwell, Washburn College; Lazare Teper, Brookwood; Shepard B. Clough, Columbia University; H. J. Heneman, University of

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Michigan; Taylor Cole, Duke University; Fritz Morstein Marx, Harvard University.

(11) "Recent Developments in American Constitutional Law."

Chairman: Harvey C. Mansfield, Yale University

Discussion leaders: B. F. Wright, Jr., Harvard University; K. C. Cole, University of Washington; Paul Feund, Department of Justice; S. D. Parratt, Syracuse University; J. J. George, Rutgers University; C. B. Swisher, Department of Justice; W. S. Jenkins, University of North Carolina; D. W. Knepper, Mississippi State College for Women; Harvey C. Mansfield, Yale University; R. E. Page, Bucknell University; E. Redford, University of Texas; J. A. C. Grant, University of California at Los Angeles; R. Wilson, Duke University.

Friday Evening, December 27

PRESIDENTIAL ADDRESS

Presiding officer: Judge E. Marvin Underwood, Atlanta, Georgia

Speaker: Francis W. Coker, Yale University, President of the Association.

Subject: "American Traditions Concerning Property and Liberty."

Saturday Morning, December 28

SECOND SESSIONS OF ROUND TABLES 1–6

Saturday Noon, December 28

SUBSCRIPTION LUNCHEON

Presiding officer: John Paschall, Vice-President, *Atlanta Journal*

Topic: "The Responsibility of the Press in a Democracy."

Speaker: George Fort Milton, President and Editor, *Chattanooga News.*

Saturday Afternoon, December 28

SECOND SESSIONS OF ROUND TABLES 7–11

ANNUAL BUSINESS MEETING AND REPORTS OF OFFICERS AND COMMITTEES

Presiding officer: President Francis W. Coker

Saturday Evening, December 28

SUBSCRIPTION DINNER

Presiding officer: Louis Brownlow

Topic: The Work of the Committee on Public Administration, Social Science Research Council.

Speakers: Charles M. Ascher and Joseph P. Harris, representing the Committee.

GENERAL SESSION

Presiding officer: John Dickinson, Assistant Attorney-General, Second Vice-President of the Association

Topic: "Domestic Planning and Foreign Policy."

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Speaker: Charles A. Beard, New Milford, Conn.

Sunday Evening, December 29

SUBSCRIPTION DINNER

(HELD JOINTLY WITH THE AMERICAN HISTORICAL ASSOCIATION AT CHATTANOOGA)

Presiding officer: George Fort Milton, President and Editor, *Chattanooga News*

Topic: "The Tennessee Valley Authority."

Speaker: David E. Lilienthal, Director and General Counsel, TVA.

Monday Morning, December 30

ROUND TABLES 12–17

(HELD JOINTLY WITH THE AMERICAN HISTORICAL ASSOCIATION)

(12) "THE HISTORICAL APPROACH TO POLITICAL SCIENCE."

Chairman: Carl J. Friedrich, Harvard University

Discussion leaders: Harold D. Lasswell, University of Chicago; Summerfield Baldwin, Baltimore, Maryland; Albert Salomon, New School for Social Research; Sigmund Neumann, Wesleyan University; Frederick M. Watkins, Harvard University.

(13) "AMERICAN BIOGRAPHY."

Chairman: Dumas Malone, Editor, *Dictionary of American Biography*

Discussion leaders: Max Lerner, Harvard University; Frederic L. Paxson, University of California; Wendell H. Stephenson, Louisiana State University; Harold Zink, DePauw University; Thomas P. Abernethy, University of Virginia; Mrs. Jeanette P. Nichols, Swarthmore, Pa.; Charles C. Tansill, American University; A. Howard Meneely, Dartmouth College.

(14) "AMERICAN FOREIGN RELATIONS."

Chairman: Arthur Preston Whitaker, Cornell University

Discussion leaders: Samuel Flagg Bemis, Yale University; W. Stull Holt, Johns Hopkins University; Quincy Wright, University of Chicago.

(15) "POLITICAL DEMAGOGUES: PAST AND PRESENT."

Chairman: Schuyler C. Wallace, Columbia University

Discussion leaders: Harold D. Lasswell, University of Chicago; Sigmund Neumann, Wesleyan University; Robert C. Brooks, Swarthmore College; Albert Hyma, University of Michigan; Francis B. Simkins, Virginia State Teacher's College; Henry R. Spencer, Ohio State University; Roy F. Nichols, University of Pennsylvania; J. D. Hicks, University of Wisconsin; Karl F. Geiser, Oberlin College.

(16) "GOVERNMENT OF THE SOUTHERN CONFEDERACY."

Chairman: Frank L. Owsley, Vanderbilt University

Discussion leaders: Irby R. Hudson, Vanderbilt University; C. W. Ramsdell, University of Texas; Major William Robinson, United States Army.

(17) "CIVIL LIBERTIES."

Chairman: Peter H. Odegard, Ohio State University

Discussion leaders: Arthur C. Cole, Western Reserve University; Merle Curti, Smith College; Thomas Barclay, Stanford University; J. A. C. Grant, Uni-

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versity of California at Los Angeles; Benjamin Kendrick, North Carolina College for Women; Fred Heinberger, Ball State Teachers College; Walter J. Shepard, Ohio State University; Roger Baldwin, American Civil Liberties Union; James F. Cook, American Legion Americanism Committee.

Monday Noon, December 30

LUNCHEON

(HELD JOINTLY WITH THE AMERICAN HISTORICAL ASSOCIATION AND AS GUESTS OF THE UNIVERSITY OF CHATTANOOGA.)

Presiding officer: Culver H. Smith, University of Chattanooga

Topic: "Reviewers Reviewed."

Speakers: Charles Howard McIlwain, Harvard University; F. Stringfellow Barr, University of Virginia.

The Secretary-Treasurer reported a total membership of 1,854, classified as follows: life members, 48; sustaining members, 16; annual and associate members, 1,790. During the year, 213 new members were gained and 160 members were lost—a net gain of 53 as compared with a loss of 33 in the preceding year. The financial report of the Secretary-Treasurer for the year showed total receipts of $9,436.24 and expenditures of $9,397.60, and a budget for 1936 was adopted estimating receipts at $8,950.00 and expenditures at $8,390.00. The membership of the Association is now at an all-time peak (except for the year 1929), and the financial situation is decidedly gratifying.

At the annual business meeting, officers for 1936 were elected as follows: president, Arthur N. Holcombe, Harvard University; first vice-president, Frank G. Bates, Indiana University; second vice-president, Lindsay Rogers, Columbia University; third vice-president, Charles West, Washington, D.C.; secretary-treasurer, Clyde L. King, University of Pennsylvania; members of the Executive Council for the term 1936–38, Finla G. Crawford, Syracuse University; Claudius O. Johnson, Washington State College; George F. Milton, Chattanooga, Tenn.; Rinehart J. Swenson, New York University; and Roger H. Wells, Bryn Mawr College. Professor Clyde L. King announced his intention to retire from the secretaryship during the coming summer.

The Managing Editor's report analyzed the contents of Volume XXIX of the REVIEW (concluded with the December issue), commented on various problems of editorial policy, and requested authorization of editorial expenditures in the same amount as in the preceding year. On his recommendation, Professors Arthur N. Holcombe and Dr. Walter F. Dodd were reëlected, and Professors Kenneth Colegrove, Charles S. Hyneman, and Charles G. Fenwick were newly elected, to membership in the Board of Editors for the customary two-year term.

For the Committee on Policy, Professor Thomas H. Reed, chairman, presented a final report which is printed in full below. By vote of the

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Executive Council, confirmed by the Association in business meeting, most of the functions of the former Committee are, however, to be continued, and a new coördinating committee of seven was authorized to be appointed by the president.[1] Among other reports received and filed were those of (1) Charles A. Beard as representative of the Association in the Social Science Research Council, briefly reviewing the Council's activities, and (2) Frederic A. Ogg as representative in the American Council of Learned Societies, calling attention to a fund for aid to publication of scholarly monographs and mentioning a number of the Council's current research and publication projects.

Discussion of the place of meeting in December, 1936, brought out a preponderance of support for Columbus, Ohio, although the matter was left, as usual, for final decision by the Executive Council. It is generally understood that, in connection with observance of the one hundred fiftieth anniversary of the framing of the national Constitution, most or all societies representing the historical and social sciences will hold their 1937 meetings in Philadelphia.—F.A.O.

[1] *Resolutions adopted by the Council and approved by the Association:*

That the Council of the American Political Science Association approves the work done by the Committee on Policy, regards it as highly valuable to the Association and the country, endorses the program of civic education by radio, and tenders cordial and sincere appreciation to Chairman Reed for his thoughtful and indefatigable labors on behalf of the Committee, which guaranteed its success.

That a new Committee on Policy, composed of seven members, be appointed by the president of the Association, with the approval of the Council.

That the chairman of the new committee be appointed by the president of the Association, with the approval of the Council.

That the new committee shall inquire into the possibilities of new financing.

That the sum of $500 be appropriated to cover the expenses of meetings held by the new committee and the expenses incurred in efforts to raise new funds.

That the unexpended balance of the original funds be placed at the disposal of the new committee for the purpose of continuing as far as possible the activities hitherto undertaken by the subcommittees of the former Committee on Policy.

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REPORT OF THE COMMITTEE ON POLICY OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION FOR THE YEAR 1935

THOMAS H. REED, GENERAL CHAIRMAN
University of Michigan

So long a time has now elapsed since the creation of the first Committee on Policy that even old members of the Association need to be reminded of the order of events.

As a result of certain expressions used by Charles A. Beard in his presidential address at the St. Louis meeting of the Association in December, 1926, a Committee on Policy was set up for the purpose of making a survey of the field of political science and the opportunities and obligations of the Association. This committee, as originally appointed by President W. B. Munro in January, 1927, consisted of C. A. Beard (chairman), C. E. Merriam, F. A. Ogg, R. C. Brooks, W. F. Willoughby, and J. R. Hayden. The following May, Dr. Beard, though remaining a member of the Committee, resigned the chairmanship and was replaced in that position by Thomas H. Reed. The Committee applied to the Carnegie Corporation for aid in making the required study and received in December, 1927, a grant of $7,500. The Committee, with certain changes in membership, continued in existence until December, 1930. In 1929 it presented and published as a supplement to the AMERICAN POLITICAL SCIENCE REVIEW an extensive report of almost 200 pages suggesting a series of activities in which the Association might profitably engage. It recommended the establishment by the Association of a standing committee on policy with subcommittees on (a) research, (b) political education, including civic instruction in schools and adult political education, (c) publications, and (d) personnel, including recruiting, training, and placement of the persons needed in research institutes, in academic positions, and in the public service. There were presented as appendices to the report the following special studies:

"Conditions Favorable to Creative Work in Political Science": Charles A. Beard.
"Research Problems in the Field of Parties, Elections, and Leadership": Charles E. Merriam.
"A General Survey of Research in Public Administration": W. F. Willoughby.
"Research in International Relations": Pitman B. Potter.
"Support for Research by Mature Scholars in Colleges and Universities": Russell M. Story.
"Facilities for Publication in the Field of Political Science": John A. Fairlie.
"Instruction in Political Science in Colleges and Universities": William B. Munro.
"Political Science Instruction in Teacher-Training Institutions, Colleges of Engineering, and Colleges of Commerce": Earl W. Crecraft.

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"Training for the Public Service": Thomas H. Reed.
"Problems of Personnel in Political Science": William Anderson.
"The American Political Science Review": Frederic A. Ogg.

After consideration of this report, the Carnegie Corporation granted to the American Political Science Association the sum of $67,500, payable $15,000 a year for the years 1931, 1932, 1933, and 1934, and $7,500 for the year 1935. The grant was subject to no specific restrictions. It was announced in December, 1930, and the present Standing Committee on Policy was created at the Cleveland meeting of that year to administer the expenditure of the Carnegie grant. As originally constituted, it consisted of a general chairman appointed for three years, of twelve other members appointed for three years with overlapping terms, and of the president, secretary-treasurer, and managing editor of the REVIEW ex-officio.[1] The twelve appointive members were each assigned to one of the four subcommittees on research, personnel, publications, and political education. An additional member was added at the Detroit meeting (1932) and assigned to the Subcommittee on Research. At the Chicago meeting of 1934, a new Subcommittee on Materials for Instruction in Government was set up, and for the first time certain persons became members of more than one subcommittee. The ex-officio members have had the privilege of associating themselves with any subcommittee they chose, and each subcommittee of adding such affiliate members as it deemed wise. Altogether, twenty-eight persons have been regular members of the Committee on Policy, not counting the five affiliate members added by the subcommittees.

In addition, the Subcommittee on Political Education has had an Advisory Council of which there have been a total of twenty-eight members, a few of whom were not members of the Association. The Subcommittee on Political Education likewise brought together a group of advisers on pre-legal studies consisting of four persons. The Citizenship Training division of the Subcommittee on Political Education also organized a group of political scientists, one from each of ten states, to cooperate in dealing with state departments of education. A total of seventy-five persons thus actively participated in the work of the Committee on Policy.

The activities and achievements of the Standing Committee on Policy during the five years of its existence make on the whole an imposing array. If we have not accomplished all that we hoped, we have accomplished more than calm expectation could have anticipated. "Behind the organization of the Committee on Policy," to quote the report of 1933, "was the purpose of making the American Political Science Association—in other words, the political science profession—more mobile,

[1] See Appendix A for complete list of members.

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more articulate, and more effective. It has sought to approach these ends by organizing subcommittees and giving them an opportunity for meeting; by promoting conferences with politicians, and with educationists and school authorities; by aiding the development of state and regional associations in the social science field; by encouraging research; by studying the relation of the political scientist to his job, seeking to enlarge the scope of his usefulness (particularly in the public service), and serving as a medium through which young members of the profession might find employment; by stimulating the study of government in the schools; by promoting adult education in citizenship by the use of radio; by improving the means of publication open to political scientists, especially through the medium of the REVIEW."

In considering the extent to which we have actually attained these objectives, we should first consider what has been done by the several subcommittees and then take account of certain other activities of great importance.

SUBCOMMITTEE ON RESEARCH

The Subcommittee on Research has been made up for the most part of extremely eminent members of the political science profession. That it has not a greater record of material achievement has been due chiefly to two causes: (1) the Social Science Research Council, an elder child of the Political Science Association, more amply provided with funds and more strategically located, has to a large extent been doing the work which might otherwise have been done by this subcommittee; and (2) there is not, and probably can never be, any definite agreement among political scientists as to the scope and function of research. If men like Merriam, Beard, Willoughby, Corwin, Loeb, Shepard, and Hall could not develop a program of research activity for the Association, no one could have done so. The subcommittee, groping for something tangible to do, decided at its very first meeting early in 1931 to prepare and publish a handbook of research to make available to scholars in the field of political science, especially beginners, the various aids to research upon which they might rely. The original conception of this work, as outlined by Dr. Willoughby, was a very broad one and the progress of the depression made it evident after a year or two that it would be impossible to secure its publication on the original scale. In order not to lose altogether the results of the labor of Dr. Willoughby and his assistant, Miss Churchill, it was decided in 1933 to put through a more limited project. The subcommittee was able to make a very advantageous arrangement with the Social Science Research Council for the services of Dr. Laverne Burchfield, who with the assistance of Dr. Corwin and other members of the subcommittee has finally produced a work entitled *Student's Guide*

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to Materials in Political Science. It supplies in convenient form the information which the beginner in political science research needs concerning the organizations interested in the field and the collections of material available for students. It is more than a mere bibliography of bibliographies; it directs the inquirer to the sources of information. It will be an important tool for the work-bench of every apprentice to the trade of political science. It can be very useful, too, to not a few of the graybeards whose heads are too full of a number of things to keep in memory the daily commonplaces of their professional activity. It has been published by Henry Holt and Company, under an agreement by which the Association is to pay $1,485, the assumed cost of production of the book; in return Henry Holt and Company take care of the promotion of the work and will pay to the Association a royalty of fifty per cent of the wholesale price ($2.25) on each copy sold. Up to the fifteenth of December, 308 copies had been sold, although relatively little has been done as yet to call the book to the attention of political science departments, libraries, etc. It is much to be hoped that the membership of the Association will take advantage of the opportunity which this convenient and compendious aid to research affords. Its widespread use will redound directly to the financial benefit of the Association.

Aside from the publication of this volume, the most impressive work of the Subcommittee on Research has been the conferences held under its auspices in 1934. Two of these conferences were held at Knoxville, Tennessee, and had to do with the problem of research in connection with the activities of the Tennessee Valley Authority. The first resulted in the formation of a Southern committee on political research to coöperate directly with the research authorities of the TVA. The second was held at the request of this committee for the purpose of further developing the idea of coöperation between the Southern political scientists and the TVA. As will appear later in this report, the Knoxville conferences were only one step in a general program which has been promoted by the Committee on Policy to stimulate political science in the Southern states.

In the latter part of August, 1934, the Subcommittee on Research held a conference at Cazenovia, New York, in conjunction with the Governmental Research Association. This conference was attended by about eighty persons, and the testimony of all who were present was that it was a most stimulating meeting.

Bringing together political scientists and those engaged directly in the more practical work of governmental research is, in the opinion of the Committee on Policy, a most valuable contribution. The academic researchers have something to learn from the governmental researchers, and have something to give them also. It is becoming more and more obvious that government cannot be carried on in the United States with-

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out the aid of political science research, and the Political Science Association should neglect no opportunity to keep in touch with those who carry the banner of research on the firing line in national, state, and local government.

A few weeks later the Subcommittee on Research held a conference at Chicago at which a group of political scientists discussed for three days "the basic emerging problems of research in the field of government and politics." It would be too much to claim that any definite agreement as to what these emerging problems were came out of this conference. Very broad and deep differences of opinion were developed among those present. On the other hand, there can be no doubt that fundamental discussions of this character in groups of political scientists not too large to permit perfect freedom of debate are exceedingly helpful, if not essential, to the progress of political thought.

But for the unfortunate illness of the chairman of the Subcommittee, Dr. Arnold B. Hall, a similar program of conferences and discussions would undoubtedly have been carried on by the Subcommittee on Research in 1935.

SUBCOMMITTEE ON PUBLICATIONS

The Subcommittee on Publications in its first year rendered the Association an important service by canvassing the need for subsidized series of monographs, foreign documents, and the classics of political science, all of which had been advocated by some members of the Association. On the basis of a questionnaire directed to the individual members of the Association, which was very generally answered, it arrived at a negative conclusion with regard to all of them. It is interesting to observe that it did not bow to the law of the majority. The returns in each case showed heavy favorable majorities, but the Subcommittee published in a large mimeographed volume a digest of the reasons by which those replying explained their votes. When the Committee on Policy met at Charlottesville, in June, 1931, and the findings of the Subcommittee were presented, member after member said, "I voted 'yes' on all three projects, but after reading the reasons adduced on both sides I have changed my mind." A resolution presented by the Subcommittee for the appointment of a committee to undertake publication of the monograph series was then, with the entire acquiescence of the Subcommittee, referred back to it.

The Subcommittee on Publications then turned its attention to the enlargement and improvement of the REVIEW. It recommended that the REVIEW be made a bimonthly, and in order not to place too heavy a burden upon the Managing Editor agreed to appropriate $600 annually from its portion of the Carnegie grant to supplement the usual appropria-

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tion of the Association and to be employed in providing additional editorial assistance. It was therefore made possible for the REVIEW to become a bimonthly with the issue of February, 1932. The $600 appropriation was continued for the years 1933 and 1934. This year it was not found necessary to continue it, and the financial record of the Association, as presented in the report of the Secretary-Treasurer, indicates that it will not be necessary in the future.

This Subcommittee has also acted for the Association in recommending suitable works to the American Council of Learned Societies, which has been entrusted with the administration of a grant to be used in assisting the publication of works in the humanities by American scholars.

SUBCOMMITTEE ON PERSONNEL

This Subcommittee, in the course of the past five years, has made a very definite contribution to the cause of better government personnel. It has explored and published a valuable monograph upon the professional opportunities of political scientists in the teaching field, and it has established an efficient placement service (now under the direction of the Secretary-Treasurer) for the purpose of aiding young political scientists in securing positions.

(1) The Subcommittee's work, especially the detailed plans developed for an extensive study of training for the public service, played no small part in the establishment by the Social Science Research Council of its Commission of Inquiry on Public Service Personnel, for which Dr. Luther Gulick, a member of the Subcommittee, was director of research. During the work of this commission and since the publication of its report, the members of this Subcommittee as individuals and as a group have lent every possible assistance. The Subcommittee, at the suggestion of President Shepard, prepared a memorandum (published in the December, 1934, issue of the REVIEW) in response to a request from the Commission for a presentation of the views of political scientists. The latest activity of the Subcommittee has been the holding of two conferences on public personnel problems (in conjunction with the Subcommittee on Political Education) at Washington University and Brown University. A succession of similar conferences covering the whole country would undoubtedly be extremely valuable.

(2) Professor William Anderson devoted nearly three years to the preparation of a report entitled "The Teaching Personnel in American Political Science Departments" which was published in the REVIEW for August, 1934. This very thorough survey of the teaching situation in the political science field was based on elaborate questionnaires distributed under the authority of the Subcommittee, and was first circulated in mimeographed form so that the reaction of the members of the Associa-

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tion could be had to it before its final publication. It represents a contribution of the greatest value.

(3) A placement service was inaugurated by Professor Anderson as chairman of the Subcommittee in 1931 and was transferred to the office of the Secretary-Treasurer with an allowance ($300 for the past year) from the Subcommittee's funds for defraying the expense of carrying it on. Every year a list of recent graduates and graduate students about to receive their degrees is made up, including a general statement of their qualifications, and mailed to heads of political science departments, the executives of universities, colleges, teachers' colleges, etc., where there may be an opportunity for the appointment of young men and women trained in political science. Where desired, more detailed information is furnished. It is impossible to say how many positions actually have been secured. No method of follow-up for this purpose has been devised. But it is the general consensus of opinion that numerous positions have been filled in this way and that the publication of the list is a great aid to heads of departments of political science and others having positions to fill in the field. There can be little doubt that there is a useful future for a committee on personnel representing the American Political Science Association in the widespread effort now being made for a broader recognition of sound principles in the administration of government.

SUBCOMMITTEE ON POLITICAL EDUCATION

This Subcommittee's work has been divided from the beginning into two parts—the first part having to do with the holding of conferences of political scientists, public officials, and interested laymen, the second devoted to the promotion of the study of government in the schools.

(1) *Conferences.* The idea of small conferences, meeting privately and without publicity, resolutions, or action of any kind, in which academic political scientists could be brought directly in contact with men in public office and with laymen active in political affairs, was suggested by Dr. Frederick Keppel of the Carnegie Corporation at the time the grant to the Committee on Policy was made. With some misgivings, the Subcommittee, headed by Professor (now President) Harold W. Dodds, undertook to arrange and carry on these conferences. Four were held in 1931, ten in 1932, nine in 1933, fifteen in 1934, and eleven in 1935—a total of 49, including two held in 1934 in conjunction with the Subcommittee on Research and two held in 1935 in conjunction with the Subcommittee on Personnel. While the numbers attending these conferences have been severely limited in accordance with the policy announced by the Subcommittee at the very beginning of its work, not quite complete returns show that a total of 1,293 persons have attended them, of whom 502

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have been academic persons, 459 public officials, and 332 interested laymen. The conferences have been distributed throughout the country as follows: Alabama 1, Arkansas 1, California 2 (Los Angeles 1, San Francisco 1), Colorado 1, Connecticut 1, Georgia 1, Idaho 1, Illinois 1, Indiana 1, Iowa 1, Kansas 1, Kentucky 2 (both in Lexington), Louisiana 2 (Baton Rouge 1, New Orleans 1), Maine 1, Maryland 2 (both in Baltimore), Massachusetts 1, Michigan 1, Minnesota 1, Mississippi 1, Missouri 3 (Columbia 2, St. Louis 1), Nebraska 1, New Hampshire 1, New Jersey 2 (both in Princeton), New York 1, North Carolina 1, Ohio 3 (Delaware 1, Cleveland 1, Oxford 1), Oregon 1, Pennsylvania 1, Rhode Island 1, South Carolina 2 (Columbia 1, Aiken 1), Tennessee 2 (both in Knoxville), Texas 2 (Dallas 1, Austin 1), Virginia 2 (Richmond 1, Charlottesville 1), Washington 2 (Seattle 1, Walla Walla 1), and Wisconsin 1—a total of 35 states in which conferences have been held.

Most of them have been held for particular states. Several, however, have been regional in character, and at least two have been national in scope. It is the well-nigh unanimous opinion of all who have attended these conferences that they perform a function of the most essential usefulness. President Dodds, in his Subcommittee report for 1933, said: "No experiment with which I have ever been connected has turned out more successfully than this one." These conferences have cost, on the average, less than $400 apiece, and it has been found in 1935 possible to put them on for an average of about $250 apiece. The total cost, including the services of a competent secretary and all other committee expenses, has not this year much exceeded $300 apiece. The value of these conferences, especially to the younger men in the profession and to those in the smaller institutions, is almost inestimable. It is, of course, obvious that it is not necessary to hold conferences of this kind in order to get contacts with public men for men like Dr. Merriam, Dr. Hall, and other leaders of that sort. But for the ordinary run-of-the-mine political scientist, actual personal contacts with men prominent in public life are rare.

It is to be observed, too, that the recent growth of interest in political science and in the Political Science Association in the Southern states, which culminated in the Association's meeting of December, 1935, in Atlanta, has been to a considerable degree fostered and encouraged by the numerous conferences held in the South. An interesting proof of this is to be found in a recent report by Mr. M. A. Wright, president of the alumni association of the University of South Carolina, published in a recent bulletin of that university. The University of South Carolina at the present time has no department of political science, and the recommendations made in Mr. Wright's report grew directly out of a conference held late in 1934 at Columbia. He says:

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Bureau of Legislative Information

A great many of the questions which confront the South Carolina legislature have been acted upon by the legislatures of other states. How were these questions solved? What has been the result of the methods pursued by other states? These are matters of vital concern to a South Carolina legislator sincerely interested in the performance of his own legislative duties.

As to such matters as have not been acted upon by other state legislatures and matters of peculiar interest to South Carolinians, there exists in the reports of departments and the heads of institutions, in papers presented before scientific or other groups, and in newspapers of general circulation, a wealth of material which would direct a very clear light upon the questions involved.

At the present time the most diligent legislator does not have the opportunity, in the press of a legislative session, to acquaint himself fully with the experience of other states or with the data existing in his own state touching upon the questions at issue. Perforce, he must depend either upon his own information or upon his intuition. Such a policy necessarily results in some errors of judgment which might be eliminated if the material for the formation of an intelligent opinion were available to the legislator.

All of the material necessary for the formation of an intelligent opinion should be assembled, carefully indexed, and made available to members of the legislature at the University. A room should be devoted to that purpose, such room being exclusively for the use of legislators. An assistant librarian should be in charge of the room and be under the duty to secure for any legislator material upon any subject that engages his attention. At the present time the legislator is confronted by propaganda and argument submitted by interested parties on both sides of the question. It should be of genuine value to him to have access to impartial and unbiased opinion and to the carefully established facts upon which such opinion is based.

Department of Political Science

A criticism which is frequently made by intelligent observers is that South Carolinians have within the last several decades made but slight contribution to the art or science of government. Our system of government and our political institutions exist in the pattern of ante-bellum days. Other states throughout the country have readjusted their state and local governments, with the result that they function more efficiently and render a larger service to the citizens of such states. The tide of such movements has hardly touched our shores.

If we are to accomplish any marked improvement in government, it would seem clear that those who direct our government, as well as private citizens upon the sidelines, must have made some study of the subject. Anyone who aspires properly to discharge his duties as a citizen should know, not merely the history and theory of the government under which he lives, but he should know something of other governments as well, in order that he may make proper comparisons between them. He should have some knowledge of what other American states have done by way of changes in the structure of their governments in order that he may in-

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telligently conclude whether or not such changes might with profit be made in his own state.

It seems to be an anomalous situation that the University of South Carolina, established for the particular purpose of furnishing leadership to the state, should not have a department of political science. As a means of fulfilling its historic mission and as a means of rendering the largest service to the people of South Carolina, such a department should be established. Every student who goes out from the University should carry with him some minimum of information touching the government under which he lives and the government under which other people live, in order that he may render intelligent assistance in bringing his own government into accord with modern and well considered principles of statecraft.

(2) *Citizenship Training*. The work of the Citizenship Training division of the Subcommittee on Political Education was carried on for four years under the direction of Professor E. W. Crecraft, and this year has been in charge of Professor Ben A. Arneson. This branch of the Subcommittee has kept in close contact with the American Council on Education, the United States Office of Education, the American Historical Association Commission on the Social Studies, and the state educational authorities in a number of the states. It carried on at each annual meeting of the Association for several years a round table on some topic in the field of government and education in which prominent political scientists and educational leaders participated. It has held 21 conferences distributed as follows: New York 2, New Jersey 2, Ohio 3, Indiana 2, Nebraska 2, Missouri 1, Minnesota 1, Kentucky 1, Georgia 2 (covering 9 southeastern states), Louisiana 1 (covering also Mississippi, Arkansas, and Alabama), Texas 1. Altogether, the work of the Subcommittee has touched 26 states. Here again, emphasis has been placed especially on the study of government in that section of the country where its development has been most retarded.

At these conferences, representatives of state educational departments, school administrators, and teachers of civics have met with political scientists for the purpose of developing sound ideas with regard to the subject-matter and methods of citizenship training. One of the members of the Subcommittee, Professor Crawford, who has taken a leading part in the conferences held in New York State, is now serving on a committee appointed by the state department of education to outline a course of civics study. Valiant work has been done by Frank G. Bates in Indiana, John P. Senning in Nebraska, and others too numerous to mention.

SUBCOMMITTEE ON MATERIALS FOR INSTRUCTION IN GOVERNMENT

Following a suggestion made by Dr. Charles A. Beard, the meeting of the Association held in Chicago in December, 1934, provided for the appointment of a new Subcommittee on Materials for Instruction in Govern-

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ment. This subcommittee secured for a total stipend of $1,250 the services of Mr. George H. E. Smith, who, working under the close supervision of Dr. Beard, has produced for the Subcommittee a collection of materials soon to be published by the Macmillan Company. In its contract with the Association, the Company assumes the entire cost of publication and agrees to pay a royalty of fifty cents per volume on all sales over 2,500.

The table of contents of this volume is as follows:

Part I. Official Programs and Platforms Setting Forth Principles Designed to Influence Public Opinion and Action

I. Principles of the Republican Party
II. Wisconsin's Progressive Party Platform
III. The Farmer-Labor Legislative Program, 1934
IV. Principles of the Socialist Party
V. Principles of the American Federation of Labor
VI. Principles and Program of the Share Our Wealth Society
VII. Preamble and Principles of the National Union for Social Justice
VIII. The Epic Plan
IX. President Roosevelt's Annual Message to Congress
X. President Roosevelt's Progress Report on Work Relief and Pending Legislation
XI. President Roosevelt's Message on Taxation.

Part II. Issues of Government in the Course of Action

XII. The Problem of "Fair" Electrical Rates
XIII. National Power Resources
XIV. Public Regulation of Operating and Holding Companies
XV. Formulation of Federal Policy Respecting Holding Companies
XVI. Influencing Public Opinion Respecting the Utility Question
XVII. President Roosevelt's Message on Holding Companies
XVIII. Problems of Transportation
XIX. Labor and Industry in Pennsylvania during the Depression
XX. Employment and Relief in the City of New York
XXI. Fact Basis of the Social Security Act of 1935
XXII. Essentials of the NIRA Held Unconstitutional
XXIII. Problems of Depression Adjustment in Agriculture
XXIV. Constitutional Law in Times of Emergency
XXV. Development of National Planning
XXVI. Regional Planning for the Mississippi Basin
XXVII. Report of the New York State Planning Board

Part III. Problems of Administration

XXVIII. Quest for Economy by the Reorganization of Local Government
XXIX. The Unicameral Legislature in Nebraska
XXX. Administrative Service
XXXI. Deficits in Federal Finances.

The results of the work of this Subcommittee are extremely encouraging. They seem to indicate that at a very moderate expense, partially if not wholly reimbursable from the sale of the publication (except for the

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desire of the Subcommittee to keep the price of the volume down to $3, the Macmillan Company would have paid a royalty on all volumes sold), valuable current materials at present almost wholly unavailable except in the document collections of the large universities, and there scarcely open to the use of students in general, can be made available in a form admirably adapted for use in instruction. This Subcommittee, of which Professor Crawford is chairman, presents a very interesting and suggestive report which because of its importance is included here in full:

"Your subcommittee has conducted an extensive inquiry into the courses of instruction dealing with contemporary affairs now offered by colleges and secondary schools. It will not burden the Association by presenting elaborate statistical tables setting forth the trends and present status of this branch of instruction in colleges and schools. Indeed, it must enter a caveat against taking too literally the figures that are now available in various places. The titles of courses and general descriptions give no exact clue to the content, methods, and nature of the courses offered. Sometimes new names are given to old arrangements of materials, and often courses in contemporary civilization or contemporary problems are little more than history in a thin disguise. Nevertheless, certain trends appear in the record, and some features of the present situation can be described with a high degree of exactness. They may be briefly summarized in the following statements:

"*The College Level.* 1. The number of college courses in 'contemporary civilization' has been increasing during the past fifteen years. Whether the increase at present is relatively greater than in other branches of instruction, apparently has not been determined; but it is a safe generalization to say that colleges now tend to look with favor on a broad course in contemporary affairs—either for its own sake or as a kind of 'orientation' for specialized courses in history, economics, politics, and geography. In some institutions, attention is being given to 'trends in social affairs' —either in connection with orientation courses or with the more specialized branches.

"In the larger institutions with well-equipped libraries which receive official documents, leading newspapers, and a great number of professional and technical journals, the problem of supplying contemporary materials for instruction can, to all appearances, be readily solved. Yet even in such institutions the solution of the problem is not without difficulties.

"The very abundance of the materials may be almost overwhelming. Immature students may be baffled by the plethora. Instructors burdened by heavy teaching schedules may not find the time required for sifting, classifying, and selecting the documents, papers, and articles for immediate and easy use in the class room. Again, where the class is large,

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as often happens, it becomes impossible for all students to gain access to the primary sources, of which only one or two copies are available.

"In the small colleges, where library facilities are meager or at least quite limited, the problem of instruction in contemporary affairs presents obvious difficulties calling for no comment here.

"2. Owing to the present state of thought in the social sciences and the changes taking place in the world of practice, courses of instruction in economics, political science, and sociology are drawing together, despite departmental resistance. Evidences of this development lie so near the surface of things that no documentation of the statement is required. Instructors in these fields find it increasingly necessary to make use of identical materials—of both official and private origin. Moreover, in their efforts to make their courses realistic, they must resort continuously to contemporary sources.

"Although instructors in larger institutions, who have time and proper library facilities, can easily secure contemporary materials for their own uses, they are confronted by the problem of obtaining a sufficient number of copies for their students. In the smaller colleges, even instructors themselves may be entirely without access to primary materials.

"3. On these grounds, which call for no elaboration, your committee is of the opinion that the problem of making contemporary materials in the social sciences available is a very real one, calling for the careful consideration of the American Political Science Association and allied bodies. It is a problem for the largest and best equipped institutions as well as the smaller colleges. In other words, it is national in its scope and requires for even a partial solution the coöperation of competent persons on a national scale.

"Your committee is aware of the philosophical and practical difficulties in the way of selecting and publishing contemporary materials. No two persons, confronted by the mountain of documents, papers, and records, will make the same selections. Political scientists will not make the same choice as economists. And no one in his right mind will make pretensions to infallibility. Nevertheless, the best recourse in the circumstances is to a consensus of informed and fairminded competence.

"Your committee, therefore, recommends the creation of a National Committee on Contemporary Materials representing all of the social sciences, with the following instructions: (a) to consider the problem of collecting and publishing contemporary materials in the social sciences, (b) to prepare a sample volume of such materials covering a single year, (c) to prepare a sample copy of a monthly publication, and (d) to make inquiries into the possibilities of financing such a project on a five-year basis.

"As a first step, your committee recommends that the American Politi-

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cal Science Association appoint one person with power to invite the coöperation of allied associations, to inquire into the possibility of temporary financing, and to report a program of action to the next meeting of the Association.

"In making this recommendation, your committee does not wish to underestimate the difficulties in the way of realizing the general purpose. It does, however, believe that it would be possible for such a committee on contemporary materials to agree readily on a large number of primary sources for publication, and by compromise and adjustment agree upon a valuable selection of supplementary sources about which the good and wise might properly differ. In any event, the selections made might be accompanied by very precise references to other materials and perhaps some analytical digests of excluded materials.

"Nor can your committee refrain from remarking that such a concerted effort to select and publish would be an intellectual exercise of the highest order and of national significance in the field of the social sciences. As an attempt at synthesis and a target for criticism, the selection and publication of primary materials would be a performance helpful to the clarification of thought and purpose in the social sciences. By making available various points of view, official and private, it would contribute to the circulation of ideas so essential to a democracy of discussion and deliberation.

"*The Secondary Schools.* 1. Your committee finds that during recent years there has been a tendency to curtail the amount of time given to history in high schools. The time taken away from history has been divided among the social sciences, either as special subjects, or in some 'fused' or 'integrated' form. Frequently the new high school course breaks away from systematic disciplines and appears as 'Problems in American Democracy'—a kind of combination of political science, economics, and sociology. Moreover, under the impact of these new interests the content of works on history has been changing. Less attention is being given to political and military events and more to economic and social development. In other words, even instruction in history is being widely regarded as an introduction to contemporary civilization, with its political, economic, and social issues, and more attention is being given in historical instruction to modern and recent times.

"2. In this connection, your committee has been compelled to take note of another development in the high school curriculum, which, in its opinion, contains elements of both promise and menace. In their efforts to give concreteness and immediate interest to the social studies, teachers and curriculum-makers have displayed a marked tendency to dispense with general and systematic considerations and to attack specific problems, or 'units', as they are called in the latest pedagogical language.

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In effect, this operation tears out of its social context certain 'areas' of fact and interest, makes a 'factual approach' to them, and treats them more or less in isolation. Among such areas are found 'units of transportation,' 'units of coal and iron,' 'units of marketing,' 'units of banking,' 'units of milk production and distribution.'

"The educational advantages of such devices for immature pupils are evident. An approach can be made through simple and material facts with which even young pupils have a certain familiarity. The 'unit' or 'area' chosen has the appearance, superficially at least, of completeness, meaning, and manageability.

"Equally evident are the perils of this 'method.' In the hands of teachers without broad training, the social setting of each unit, which conditions each part of it and the meaning of the whole, may be entirely ignored or neglected, and thus instruction may become unreal, meaningless, or false. Moreover, unless the selection and organization of materials for each 'unit' are controlled by some common principles, a curriculum of 'units' in the social studies may degenerate into sheer intellectual and moral anarchy.

"3. Your committee finds that the state education departments are conscious of the importance of the social studies. They have taken steps to provide such courses for the public schools. In many cases, they are without a 'sailing chart' or a 'compass' as they seek ways and means of providing for these courses. Your committee is of the opinion that the colleges have a distinct obligation to be of assistance in meeting this situation.

"4. Since the high schools are quite properly devoting more attention to contemporaneous affairs and the social studies, as distinguished from history, and are showing a tendency to dissolve the curriculum into disparate and uncontrolled parts, the problem of supplying them with current materials is one of the pressing problems of secondary education. The library facilities of high schools are, with exceptions, less adequate than those of colleges. The teaching load is heavier. The broad competence required for unification and balance is more likely to be absent.

"Your committee, therefore, recommends that the Committee on Contemporary Materials be instructed to consider this problem and to enter into informal relations with the National Council on the Social Studies with a view to adapting its selections for the college level to the requirements of the secondary schools.

"*General Considerations.* As a result of its inquiries, your committee is impressed by the opportunities now open to the American Political Science Association and allied bodies in the field of education, as distinguished from research and inquiry. It also feels compelled to emphasize obligations. If the spirit of free inquiry, scholarship, and scientific ex-

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position is to be preserved against constricting pressures and to render its fullest services to a perplexed world, learned societies cannot remain aloof from and indifferent to problems and methods of instruction. In connection with education, they must seek a sympathetic understanding of educational problems, and bring their best competence to bear upon the task of supplying materials for instruction in contemporary affairs."

COÖPERATION WITH REGIONAL ASSOCIATIONS

A highly significant and successful activity of the Committee on Policy has been its effort to encourage and coöperate with regional political science associations, directed chiefly toward improving the programs of their meetings by paying the expenses of distinguished political scientists to participate in them and by extending small grants to make possible the publication of proceedings. This effort began late in 1931, when two speakers were sent to regional meetings. The expenses of six presidents of such associations were paid to the Washington meeting of the American Political Science Association in December of that year, and they discussed further plans for coöperation with the Council and the Committee on Policy. In 1932, four speakers were sent to regional meetings, in 1933 two, in 1934 two, and in 1935 one. Two grants, of $100 and $75 respectively, have been made for the publication of proceedings and have been partially refunded to the Committee from the proceeds of sales. The value of this work is far beyond its cost,[2] and the Committee hopes that it will be continued and extended.

RADIO

One of the most important results of the work of the Committee on Policy has been the great experiment in adult civic education by radio carried on by the Committee on Civic Education by Radio jointly set up by the American Political Science Association and the National Advisory Council on Radio in Education. This committee was organized in the fall of 1931 in order to take advantage of an offer made by the National Broadcasting Company to the National Advisory Council on Radio in Education of four years of favorable time for civic education. The appointment of this committee, which consists of Thomas H. Reed (chairman), Charles A. Beard, George S. Counts, Norman H. Davis, William Hard, John A. Lapp, Katharine Ludington, Joseph D. McGoldrick, Albert B. Meredith, Charles E. Merriam, Harold G. Moulton, Frederic A. Ogg, Bessie L. Pierce, Chester H. Rowell, and Murray Seasongood, was ratified by the Association at its annual meeting in Washington in 1931. While no funds of the Committee on Policy except

[2] The cost of bringing the presidents of regional associations to Washington in 1931 was $529.94, and of sending the eleven speakers to regional meetings, $617.04.

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about five thousand dollars have been applied to the promotion of the radio programs, the Committee on Policy can properly take credit for the success of this enterprise which has occupied a major share of the time of the General Chairman since the spring of 1932. Through direct contributions, and with the coöperation of the National Advisory Council on Radio in Education and the National Municipal League, the programs have been kept continuously on the air since March, 1932, except for eight weeks in the summer of that year. On December 24, 1935, occurred the one hundred and eighty-sixth "You and Your Government" broadcast. The aggregate cost of putting these programs on the air, shared as indicated above, has amounted to about $35,000. Folders announcing the several series have been distributed to the number of 1,397,975, and 119,945 reprints of the addresses, for which a substantial charge[3] is made, have been distributed. In addition, 1,330 instructors' manuals, 17,550 listeners' handbooks, and 900 copies of a listeners' test were distributed. The "fan mail" has reached such proportions that its storage is already a matter of serious embarrassment, and by the best standards which the radio profession has to apply, the aggregate number of hearers has run into the millions.

The success of the You and Your Government series, however, has not been exclusively a quantitative one. In the spring of 1935, it received the award of the Women's National Radio Committee, an organization representing some ten million women, as the best sustaining non-musical program on the air. Mr. Anning S. Prall, chairman of the Federal Communications Commission, in announcing the award, said it was made "because of the timeliness of the subjects, the wide range covered, and the impartial manner of presentation."

The programs have been participated in by many of our leading political scientists; excluding the Chairman, academic members of the profession have appeared before the microphone no less than 77 times. In addition, the "You and Your Government" series has presented 45 governmental researchers, 5 college presidents, 12 economists, 10 educationalists, 10 other representatives of the academic world, 8 United States senators, 10 congressmen, 25 other officials of the national government, 15 governors, 11 state legislators, 33 other state and local officials, 25 editors and publicists, 31 business men, 19 lawyers and judges, and 5 representatives of the League of Women Voters.

The continuance of this work seems reasonably certain. For the winter series, beginning February 4, we have arranged to coöperate with the

[3] The price of each reprint in Series 1, 2, 3, and 8 was ten cents, and in the remaining series fifteen cents. Series prices were $1.50 for Series 1, 2, and 3; $2.50 for Series 4, 6, and 7; $1.00 for Series 8; and $2.00 for Series 5, 9, 10, 11, 12 (and the new Series 13).

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American Academy of Political and Social Science, which is to pay the cost of the preparation and promotion of the series. The subject will be "The Constitution in the Twentieth Century." Each speaker not only will deliver a radio address, but will prepare an article for the May number of the *Annals;* and instead of the usual reprints of the radio addresses, preprints of each *Annals* article (as well as a reading list) will be sold for fifteen cents apiece, or $2 for the series, either a complete set of separates or the bound volume of the *Annals.* The new series begins with conservative David P. Barrows of the University of California speaking on "The Constitution as an Element of Stability in American Life," and will close with liberal Charles A. Beard speaking on "The Living Constitution;" and the names of E. S. Corwin, Walter F. Dodd, F. W. Coker, James Hart, W. Y. Elliott, and John Dickinson will adorn the series.

SUMMARY AND RECOMMENDATIONS

Summarizing the activities of the Committee on Policy promoting the mobility of the political science profession, there have been held 9 meetings of the Committee on Policy, 15 separate subcommittee meetings, 49 general political education conferences, and 21 citizenship training conferences.

Summarizing the Committee's contribution toward making the Association more articulate, the Committee has presented 186 radio broadcasts over a nation-wide network of the National Broadcasting Company, has published an original 200-page report, four annual reports, Professor William Anderson's report on "The Teaching Personnel in American Political Science Departments" and a memorandum on public personnel problems, a reprint of each radio broadcast, and certain pamphlets incidental to the radio programs. The mere fact of the mention of the name of the American Political Science Association on nearly a million and a half folders announcing the radio programs, 186 times on the air over a nation-wide network, and at least once in all these other publications has contributed not a little to the effective state of the Association's membership, which has remained more nearly normal during the depression than that of any other similar learned society in this country.

Under all these circumstances, it is regrettable that it has been found impossible to obtain from any foundation or individual continued support for the general work of the Committee on Policy. It must, however, be faced as a fact that funds are not available for this purpose. It would therefore seem wise to recognize that the Committee on Policy has served its purpose, and that it should now be dissolved. The balance with which it ends the year, which will amount to something more than seven thousand dollars, should be turned over to the Association as such to be

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expended by the Association in accordance with the terms of the Carnegie grant.

The abolition of the Committee on Policy, however, does not necessarily carry with it the abolition of all of its subcommittees. Some of them can operate effectively without any considerable appropriation. Others have some prospect of securing funds for the prosecution of their particular tasks.

At its meeting in Atlanta on Friday evening, December 27, the Committee on Policy adopted the following resolution:

"Resolved: That it is the sense of the Committee on Policy that it should be dissolved and that in handing this resolution to the Council the Committee recommends the continuance of the activities of the Subcommittees on Publications, Personnel, Materials for Instruction, and Political Education, and further recommends that the Council and the Association reindorse the work of the Committee on Civic Education by Radio."[4]

[4] For the action taken by the Executive Council and by the Association, see p. 141 above.

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APPENDIX A. MEMBERSHIP OF COMMITTEE ON POLICY, 1931–1935[a]

	1931	1932	1933	1934	1935
General Chairman	T. H. Reed	T. H. Reed	T. H. Reed	T. H. Reed	T. H. Reed
Subcommittee on Research	C. A. Beard E. S. Corwin[b] C. L. King[b] C. E. Merriam W. F. Willoughby[d]	C. A. Beard E. S. Corwin[c] C. E. Merriam W. F. Willoughby[bd]	C. A. Beard E. S. Corwin A. B. Hall[d] Isidor Loeb[b] C. E. Merriam	C. A. Beard A. B. Hall[d] James Hart C. E. Merriam W. J. Shepard[b]	F. W. Coker[b] A. B. Hall[d] C. E. Merriam G. W. Spicer
Subcommittee on Personnel	William Anderson[d] Luther Gulick Harvey Walker	William Anderson[d] J. M. Gaus Luther Gulick C. L. King[b]	William Anderson[d] J. M. Gaus Luther Gulick C. L. King[b]	William Anderson J. M. Gaus[d] Luther Gulick C. L. King[b]	William Anderson Phillips Bradley[d] M. E. Dimock[e] Luther Gulick C. L. King[b]
Subcommittee on Publications	A. N. Holcombe Isidor Loeb F. A. Ogg[b] B. F. Shambaugh[d]	A. N. Holcombe F. A. Ogg[b] B. F. Shambaugh[d] W. J. Shepard	B. A. Arneson F. A. Ogg[b] B. F. Shambaugh[d] W. J. Shepard	B. A. Arneson F. W. Coker[d] F. G. Crawford[f] F. A. Ogg[b]	B. A. Arneson F. G. Crawford F. A. Ogg[b] Amry Vandenbosch[dg]
Subcommittee on Political Education	E. W. Crecraft H. W. Dodds[d] W. B. Munro	E. W. Crecraft H. W. Dodds[d] W. B. Munro	E. W. Crecraft H. W. Dodds[d] A. N. Holcombe	E. W. Crecraft C. B. Gosnell A. N. Holcombe[d]	B. A. Arneson C. B. Gosnell[d] James Hart
Subcommittee on Materials for Instruction					B. A. Arneson C. A. Beard F. G. Crawford[d]

[a] Excludes affiliate members. [b] Ex-officio. [c] Vice W. F. Willoughby. [d] Chairman of subcommittee. [e] Vice A. N. Holcombe (resigned); acting chairman during Professor Bradley's absence in Europe. [f] Vice W. J. Shepard. [g] Vice F. W. Coker.

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APPENDIX B. FINANCIAL STATEMENTS

Balance Sheet, December 16, 1935

Balance in check-book as reported by Secretary-Treasurer, December 15, 1934		$ 6,203.92
Cash revolving funds		400.00
Deposits made in 1935, credited to 1934 balances		1,140.87
		$ 7,744.79
Minus bills incurred in 1934, paid in 1935		725.77
Final balance, 1934		$ 7,019.02
Receipts		
Carnegie Corporation grant for 1935		7,500.00
Interest on bond (net)		128.75
Contributions to Committee on Civic Education by Radio		225.00
Total receipts		$14,872.77
Disbursements		
Office	$2,499.47	
Travel	3,529.08	
Bond purchase	5,115.63	
Total disbursements		11,143.58
Balance, December 16, 1935		$ 3,729.19[a]

Reconciliation

Balances in cash revolving funds		
General Chairman	$ 300.00	
Subcommittee on Political Education	50.00	
Subcommittee on Personnel	50.00	
Cash balance in bank per audit, December 16, 1935	3,329.19	
		$ 3,729.19[a]

Appropriation Statement, 1935

	Appropriation	*Net Disbursements*		*Balance*
General Committee Fund	$3,747.77[b]	Office	$ 51.50	
		Travel	91.00	
			$5,258.13[c]	$1,510.36(—)
General Chairman	500.00	Office	$ 89.72	
		Travel	43.88	
			$ 133.60	366.40
Research	1,500.00	Office	$ 39.03	1,460.97

[a] Includes reserves of $1,200 for publication of *Student's Guide* and of $225 for Committee on Civic Education by Radio; excludes bond held for Committee by Secretary-Treasurer.

[b] Unappropriated balance, including final balance from 1934, net interest on bonds received during 1935, and the Carnegie Corporation's 1935 grant; excludes contributions to Committee on Civic Education by Radio.

[c] Includes purchase of $5,000 U. S. Treasury 3s due 1946–48 at 102 10/32.

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POLITICAL EDUCATION				
General	3,350.00	Office	$ 636.42	
		Travel	2,235.52	
			$2,871.94	478.06
Civics Study	1,150.00	Office	$ 35.22	
		Travel	873.41	
			$ 908.63	241.37
PUBLICATIONS	800.00			800.00
PERSONNEL	1,200.00	Office	$ 396.98	
		Travel	251.61	
			$ 648.59	551.41
MATERIALS FOR INSTRUCTION	2,400.00	Office	$1,250.00	
		Travel	33.66	
			$1,283.66	1,116.34
Aggregate balance				$3,504.19[d]

Consolidated Revenue and Expenditure Statement, 1931–1935

Revenue		
Balance from old committee fund	$ 1,157.68	
Carnegie Corporation grant	67,500.00	
Interest on bank deposits	268.79	
Interest on bond (net)	128.75	
		$69,055.22
Expenditure		
Office expense	$28,739.99	
Travel expense	31,695.41	
Purchase of U. S. bond	5,115.63	
		65,551.03
Balance		$ 3,504.19[d]

[d] Excludes contributions to Committee on Civic Education by Radio reserved for its use; excludes also bond held for the Committee by the Secretary-Treasurer (purchase price, $5,115.63, par value $5,000.00); includes $1,200 reserve for publication of *Student's Guide*.

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CONSOLIDATED APPROPRIATION STATEMENT, 1931–1935

	1931		1932		1933	
	Appropriations	*Expenditures*	*Appropriations*	*Expenditures*	*Appropriations*	*Expenditures*
General Committee Fund	$ 2,865.79[a]	$ 3,193.59	$ 2,854.71[a]	$ 2,397.90	$ 2,782.17[a]	$ 1,489.54
General Chairman	1,900.00	1,760.45	1,400.00	1,487.72	1,200.00	1,318.62
Research	3,500.00	1,048.63	2,600.00	2,147.99	3,400.00	2,169.89
Political Education:						
General	4,700.00	4,709.35	8,440.00	7,608.71	4,500.00	3,595.25
Civics Study	800.00	803.18	1,000.00	900.47	1,400.00	1,199.08
Publications	750.00	272.87	800.00	600.00	1,000.00	700.00
Personnel	1,775.00	1,094.84	1,400.00	1,168.60	1,700.00	746.41
Radio Activity	.....	.....	.....	.....	1,250.00	1,250.00
Materials for Instruction	.....	.....	.....	.....	.....	.....
Proof: Total	$16,290.79	$12,882.91	$18,494.71	$16,311.39	$17,232.17	$12,468.79
Final balance		3,407.88		2,183.32		4,763.38
	$16,290.79	$16,290.79	$18,494.71	$18,494.71	$17,232.17	$17,232.17

[a] Final balance from preceding year plus all revenue of the year less appropriations.

[f] Revenue of all years (except contributions to Committee on Civic Education by Radio) less appropriations of all years.

CONSOLIDATED APPROPRIATION STATEMENT, 1931–1935 (*Continued*)

	1934		*1935*		*Total*	
	Appropriations	*Expenditures*	*Appropriations*	*Expenditures*	*Appropriations*	*Expenditures*
General Committee Fund	$ 3,613.38[e]	$ 1,728.41	$ 3,747.77[b]	$ 5,258.13[c]	$15,863.82[f]	$14,067.57[c]
General Chairman	1,500.00	802.48	500.00	133.60	6,500.00	5,502.87
Research	3,500.00	2,565.23	1,500.00	39.03	14,500.00	7,970.77
Political Education:						
General	5,500.00	4,581.59	3,350.00	2,871.94	26,490.00	23,366.84
Civics Study	2,250.00	1,315.06	1,150.00	908.63	6,600.00	5,126.42
Publications	1,100.00	762.55	800.00	.....	4,450.00	2,335.42
Personnel	2,300.00	989.04	1,200.00	648.59	8,375.00	4,647.48
Radio Activity	.....	.....	.....	.....	1,250.00	1,250.00
Materials for Instruction	.....	.....	2,400.00	1,283.66	2,400.00	1,283.66
Proof: Total	$19,763.38	$12,744.36	$14,647.77	$11,143.58	$86,428.82	$65,551.03[c]
Final Balance		7,019.02		3,504.19[d]		20,877.79
	$19,763.38	$19,763.38	$14,647.77	$14,647.77	$86,428.82	$86,428.82

For footnotes, see previous pages.

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The Mind and Society. By Vilfredo Pareto. Edited by Arthur Livingston. (New York: Harcourt, Brace and Company. 1935. Four volumes. Pp. 2,033.)

"The kind of a philosopher a man is depends on the kind of a man he is." Pareto would repudiate being described as a philosopher. But he certainly had a *weltanschauung*, and that is enough to bring him within Fichte's well-known dictum.

What kind of a man was Pareto? An aristocrat! A trained engineer! A thinker! A man of strong opinions, and even prejudices! A scientist, emancipated from the thralldom of the church, and always conscious of his emancipation, for whom the great conflict between Religion and Science was still a vital and burning question! A free-thinker! A man of very wide reading and culture! Personally selfish, ego-centric, and proud! One fails to catch anything of the humility and simple-mindedness of Darwin, or the toleration and sweet reasonableness of William James. There was an intellectual arrogance about Pareto, a contempt for the multitude and for those whose paths crossed his own. Finally, he was clever—*very* clever. He builds protective bulwarks at every step against all possible opponents. He guards himself by creating his own terminology, to which he attaches precise and narrow meanings, and repudiates all implications and connotations which are not clearly and logically derivable from his formally stated propositions.

His contribution is definitely methodological. He undertakes to apply the methods of natural science to social phenomena. He has made no significant substantive additions to sociological data. He is thoroughly convinced that the foundations of social science are faulty and that the methods employed are unsound, certainly unscientific. It is his purpose to expose the weakness, the fallacies, the basic irrationality of these foundations, and to provide the canons and criteria by which a real science of society may be created. There is nothing really novel in Pareto. The attempt to delimit the field of science sharply, to apply its methods and criteria to social phenomena, to exclude all ethical judgments and norms of value, to reduce politics, economics, sociology, and history to purely descriptive statements of facts, their classification and the generalizations logically derived therefrom, is nothing new. But certainly one can say that Pareto has criticized the teleological and metaphysical element in the existing social sciences more incisively; he has more sharply defined the criteria and methods of science; he has more exhaustively examined the entire problem of methodology in sociology than any previous writer.

It is in delimiting the field of his interest that Pareto displays the

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cleverness and adroitness of which he is a supreme master. He not only frankly admits, but reiterates, that his entire work rests on, and is limited by, his basic assumptions. He does not attempt to justify these assumptions, and he professes to have no quarrel with anyone who makes other assumptions. Euclidian geometry is not the only geometry, but one must not attempt to mingle Euclid and Lobocheviski. Neither may one mix science and metaphysics. He professes no antagonism to metaphysics, ideology, ethics, and teleological philosophy, as such. His assumed attitude is one of complete indifference toward all these varieties of non-scientific thinking, except (and this is a most significant point) that the phenomena of all such subjective thinking, along with all other non-rational human behavior, constitute data which the social scientist may, and indeed must, use in the construction of his science. While this is all sufficiently lucid and explicit, one has the feeling that behind the cold logic of his discourse, Pareto burns with a passionate contempt and hatred of all seers, mystics, theologians, metaphysicians, and philosophers, and that this hatred is inspired by something more than their mingling in their systems of science and non-science. One has the feeling that Pareto is not merely indifferent but really hostile to the whole world of thought that seeks answers to the questions of value, ends, and purpose.

To his work Pareto has brought a wealth of erudition that is amazing, though not without its notable *lacunæ*. His treatise is, moreover, constructed on a colossal scale. His apparatus of definitions, syllogisms, distinctions, and categories is breath-taking. The reader is overwhelmed by the stupendous character of the work. The fact is that the scaffolding is out of all proportion to the structure itself. The work would be much more useful if it were reduced to at most one-half its present dimensions. The author is extremely repetitious. His argument is both very fine-spun and very complex.

The supreme and really significant question which is raised by a reading of Pareto is one which Pareto himself does not raise: Can science be divorced from philosophy? For Pareto, it is a postulate that science is so divorced. This is his basic assumption. But does an impassable gulf separate physics and metaphysics? Can science dispense with value judgments? Is there no element of purpose whatsoever in science? To maintain this reduces all scientific motivation to mere intellectual curiosity, which in turn is reducible to some mere psychological response to stimulus. Science becomes only an amusement, which like solving crossword puzzles or playing bridge affords a kind of mental satisfaction. That is, of course, an assumption upon which one can erect a system of ideas, if he wishes to do so. But for him who is not content with this postulate, who *believes* (and I use the word *believes* advisedly) that there is value and purpose in life and in science as an essential part of life,

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who cannot believe that science has no purpose or meaning and is explainable only as a response to stimuli within the human organism, the entire superstructure of Pareto's remarkable work loses at once all significance and meaning.

Particularly can the social sciences not dispense with this fourth dimension of normative judgments? What would history, or any of the social sciences, be if all questions of utility and purpose were ruled out from consideration? What criterion would they apply in the selection of material? If every passing phase of human experience is as important as every other phase, the task of the historian or social scientist would be impossible, since no measure of selectivity could be applied. One can envisage great corps of statisticians piling up vast masses of data with no criterion of selection and no guiding purpose.

It is impossible to come to grips with this question. It eludes the usual methods of argumentation. There is no common premise from which the debate may proceed. The assertion that science is motivated by some conception of social value at once begs the question for one who excludes value entirely from consideration. If, on the other hand, it is asserted that science is only response to an organismic stimulus, there is no evidence that this stimulus is not in itself teleological, that it does not embody purpose and ends which find expression in a conscious scheme of values. The problem itself transcends the canons and criteria which Pareto lays down for science; it is indeed a problem in metaphysics, which is by definition excluded. Like the age-long controversy over free will and determinism, it is utterly futile. The only solution is in Fichte's dictum: "The kind of a philosopher a man is depends on the kind of a man he is."

WALTER J. SHEPARD.

Ohio State University.

Mensch und Gesellschaft im Zeitalter des Umbaus. By KARL MANNHEIM. (Leiden: A. W. Sijthoff's Uitgeversmaatschappij N. V. 1935. Pp. xviii, 207.)

In this book, the author, formerly of the University of Frankfurt and now associated with the London School of Economics and Political Science, has undertaken an important effort towards diagnosing the causes of the crisis of industrial society and seeking adequate remedies for them. One feels, on many pages, that the book was born out of the tragic experiences which German and Austrian socialism has suffered in recent times. In three consecutive essays, he tries to coördinate his experiences and draw his conclusions. The first he calls "The Rational and Irrational Elements in Our Society"; the second, "The Sociological Causes of the Present Cultural Crisis"; and the third, "Thinking on the Level of Planning."

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The chief danger of the present society lies, according to Professor Mannheim, in the fact that large masses of the population have become politically active (the process of "fundamental democratization)," and that the irrationalism of the masses more and more invades political life, occupying positions where a growing rational attitude would be necessary. Under this condition, the *laissez faire* system menaces our mass democracies with dissolution, and this peril becomes even greater when a dictatorship by propaganda eliminates the form of relative freedom. We witness all over the world a continuous weakening of the traditional groups of *élites*. Demagogic propaganda pushes elements into the foreground which are incapable of a true intellectual life. Professor Mannheim seems to favor a fundamental proletarization of the masses, rather than to support the *petit bourgeois* elements, which he regards as distinctly reactionary.

Dictatorship is not real planning, because its system is rigid, unable to create organs for self-criticism and coördination. This leads the author to a searching investigation into the essence of *planning*, opposing this term to *finding* and *invention*. He shows the difficulty of real planning, which only an "authoritative democracy" could establish, because the main scope would be to coördinate all the inventions and functions of society from the point of view of a dominant purpose. For such a gigantic enterprise, the abstract principles of our existing social sciences do not suffice, for there is an imperative need for the knowledge of certain *principia media;* that is, of all those social forces which determine our present period. And even this would not suffice, because the present human material is inadequate for the task, and therefore the remolding of human nature is essential. In pragmatism, behaviorism, and in the *Tiefenpsychologie*, Professor Mannheim sees current trends in the right direction. However, the planning of the average human nature is not enough; we need a new type of man which could direct the key positions of the new society. Planning needs a new sociological thinking; instead of an abstract specialization, an interdependent coördination. Furthermore, not only the economic and educational function of society must be planned, but also the necessary amount of intellectual and political freedom, of leisure and irrationalism.

In all these and many supplementary constructions Professor Mannheim develops the known brilliancies of the former Heidelberg school of sociology: its sharpness in distinctions, its synthesizing power, its enormous grasp on literature. At the same time, he cannot avoid the faults of certain followers of this school, which consist chiefly of an intellectualism and logicism not sufficiently counterbalanced by a good common sense or intuitive insight into reality. There are a great many questions which have continuously alarmed the reviewer in reading this challenging book. For instance, how does Professor Mannheim know that we are really in a

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period of *Umbau* and not in that of a dissolution, the signs of which increasingly abound? He seems to advocate a hyper-rationalism which never and nowhere has existed in history. He has an extravagant confidence in the utmost malleability of human nature, which the facts do not support at all. He overstates the case for reasonableness and does not realize that the irrational, sentimental, and even mystic impulses of human nature have a very great importance in historic evolution. Furthermore, the rôle of the creative individual almost disappears in his speculation, and the identification of rationality with morality eliminates the moral *élan* of the fighters. He forgets that there can never be—or very, very exceptionally—a planning for the common good, and that all planning in the present class society would mean the greatest amount of class struggle. As a matter of fact, there is no planning in general, but only from the point of view of certain values, about which the author is silent. Therefore his "authoritative democracy" with universal planning could end only—if effective—in a dictatorship not less oppressive than the Fascist or the Bolshevik type. Finally, Professor Mannheim does not prove, and cannot prove, that the chief cause of the present world crisis is *laissez faire*, because this system was never seriously tried and the few partial experiments with it were always counterbalanced by feudal estates, tariff protection, and many other monopolistic and spoliative interferences.

Thinking over the book again, the reviewer cannot free himself from a gloomy impression. Comparing the refined abstractions of the author with the passionate dialectics of the Bolsheviks, or the "beast of prey" philosophy of Spengler, one cannot fail to feel that his theory has no chance whatever to influence the future.

OSCAR JÁSZI.

Oberlin College.

Der Staat. By FRANZ W. JERUSALEM. (Jena: Gustav Fischer. 1935. Pp. xv, 324.)

Since National Socialism's conquest of the Reich, German political science reflects a curious dilemma. The empirical fact that *Der Führer* rules, unhampered by any majority resolutions, has given validity to a still rudimentary theory of charismatic leadership; but the bilateral aspects of leadership, particularly status and function of the citizenry as followers, are as yet considerably neglected, except for the pragmatical observation that followers are being led. Charismatic leadership obviously breaks the bounds of political individualism. Hence the wholesale rejection of individualistic reasoning; but while there is enthusiastic unanimity in criticizing the "individualistic state," the dogmatical contents of the term *Volksgemeinschaft*, which allegedly is the basic concept

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of the "new doctrine," have not been finally assessed. This burning of the ships, the insistence on the singularity of National Socialism even in comparison with Fascism, strangely contrasts with the simultaneous effort to prove the competitive strength of the *Führerstaat* in the light of strictly democratic categories. Hence the recurrent contention that the Third Reich is merely a variation within the familiar pattern of representative government. Naturally, the American student of politics, in the face of such a confusing picture, remains inclined to reserve judgment. Naturally, he will first search for some illumination of these essential premises when approaching a contemporary *Beitrag zur Staatslehre*—as Jerusalem introduces his book.

Unfortunately, the author, to whom we owe a penetrating and highly unorthodox volume on *Soziologie des Rechts* (1925), leaves much to be desired in clarity and definiteness just at this point. It is true that the "ultimate form" of the "new state" is still a matter of the future (p. 293). Yet one might wish for more adequate information than Jerusalem offers in the laconic statement: "That the *Führerstaat* is a *Rechtsstaat* needs no proof" (p. 305)—the more since, according to the author, "the leader of the people combines in his person all functions of government" (p. 308), including that of "the German people's supreme judicial magistrate," as Hitler phrased it after the 1934 "purge" (p. 309). Indeed, "as the sovereign prince could decide only within the scope of his 'arbitrariness' left existent through the spirit of legal community, so also the leader of the people" (p. 308). Such a formulation, even if partly the product of a peculiar terminology, neither appears to fit anything remotely resembling the traditional *Rechtsstaat* theory nor supports the Third Reich's claim to political originality. The author is again conspicuously off base when he conditions the abolition of the *nulla poena sine lege* principle upon a stronger consolidation of the *Gemeingeist* (p. 148, note 2), while the cabinet, almost at the same time, scrapped the clause forthwith.

But today's problems are not Jerusalem's main concern. His key thesis is that the historical development from early Germanic collectivism ("closed community") to the age of individualism ("open community") leads back, beginning with Rousseau, to another period of "closed community" life (p. 293) which in Germany found expression in the National Revolution. In elaborating this thesis, the author deals primarily with the "individualistic state" (pp. 121–233) and the intermediary "state of national representation" in France, England, and Germany (pp. 241–292). And while the topheavy load of methodological considerations (pp. 1–121) points to Jerusalem's midway position between sociology and political science, his analysis is as keen as his treatise is rich in novel perspectives.

FRITZ MORSTEIN MARX.

Harvard University.

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Staats- und Verwaltungsrecht im Dritten Reich. By Otto Meissner and Georg Kaisenberg. (Berlin: Verlag für Sozialpolitik, Wirtschaft, und Statistik. 1935. Pp. xvi, 357.)

This book is not the work of new men elevated to a position of academic authority by the fortunes of revolution. Both authors are reputable jurists; and both, having served the governments of the Empire and the Republic, now find it possible to adapt themselves to the service of the Third Reich. During the past eventful decade, no person has been in a better position to watch the development of German constitutional law than *Staatssekretär* Dr. Meissner; later evidence may reveal the extent of his own influence upon that development.

The book is the first comprehensive statement of the public law of the Third Reich. It gives a detailed and systematic, if somewhat mechanical, analysis of changes in constitutional and administrative law, without illustrative material or references to authorities other than the relevant laws and decrees. The greater part of the book concerns the legal structure of the political and administrative machinery of the state, emphasizing the administrative machinery in relation to specific fields of state control. This section is preceded by brief analyses of "The Foundations of the Third Reich" and the rôle of the N.S.D.A.P., and followed by a short section on the organic integration of classes in the state. For the most part, the presentation is objective, and made with a minimum of ideological ballyhoo.

Nazi changes must, of course, be placed in historical and ideological settings which invest them with the dignity and consistency of necessary steps in the reconstruction of a truly German state. The concise summaries of the law and theory of the Weimar constitution, which form part of this setting, are often distorted by contraction and over-formal statement, but not by deliberate misinterpretation.

In keeping with their emphasis on historical continuity, the authors ascribe to the Weimar constitution a continued, if limited, validity. Those parts of the instrument which deal with structure and legislation have been basically transformed. Those which declare general principles of social theory can have validity only so far as they do not conflict with the *weltanschauung* of National Socialism. But "the constitution contains numerous legal principles which still exist as basic law so long as contradictory law is not created" (p. 16). The authors describe the referendum as not only a return to ancient Germanic ways (pp. 93–94), but also "the final fulfillment of the *Volksstaat* under authoritarian leadership" (p. 95). On the position of the Reichstag, they cite Frick's statement that it continues to exist by the will of the Leader as a forum before which he can bring, for discussion and judgment, important questions which cannot be presented to the people directly (p. 87).

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On the other hand, repeated references to the legal rôle of the Leader and Reich-Chancellor demonstrate the permeation of the legal system by the new—or old—principle of leadership. A striking example is the tendency toward the obliteration of the distinction between administration and political action, and of the corresponding sharp distinction between *Verwaltungsrecht* and *Staatsrecht*—both products of the liberal constitutional state. Unrestrained administrative competence must stand at the service of political leadership; political neutrality, which the Weimar constitution attempted to give the administrative service, gives way to political responsibility, expressed in the relationship of direct personal loyalty to the Leader (pp. 137 ff.).

As a German commentary on public law, the book itself is revolutionary in one respect. Neither in the discussion of the Weimar constitution nor in that of new laws and decrees do the authors cite any secondary authorities—with the exception of two or three references to *Staatsminister* Dr. Frick, and several references to *Mein Kampf*. Brüning is mentioned once. Reference to those whom one would expect to meet in any discussion of the Weimar constitution—Preuss, Anschütz, W. Jellinek, etc.—is precluded, apparently, by the same consideration that prevents any mention by name of the first president of the Republic.

JOHN D. LEWIS.

Oberlin College.

Droit Constitutionnel International. BY B. MIRKINE-GUETZÉVITCH. (Paris: Librairie du Recueil Sirey. 1933. Pp. 299.)

To M. Mirkine-Guetzévitch, who in this work continues his construction of philosophic unity in public law, this unity is to be sought, not in the domain of logic, but in the "historic evolution of law." The resulting method sets him apart from monists like Kelsen and Verdross on the one side, and from defenders of the primacy of internal law on the other. As for dualists, the author thinks that while M. Triepel's statement in 1899 gave an accurate picture of international law in its relation to international life, the subsequent evolution of international life now requires a new statement. To this reviewer, this means that M. Mirkine-Guetzévitch is logically a dualist, but that he thinks that the evolution of events is constantly changing the terms of the relation between international and constitutional law, and in the direction of unification.

In this work, he approaches international law from the constitutional side, and exhibits the increasing "internationalization of constitutional law." Thus we have cases in which (1) treaties embody constitutional régimes, as in Memel; (2) constitutions embody principles of the League Covenant; (3) constitutions call for legislative consent to the ratification of treaties; (4) constitutions give treaties the force of internal law;

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(5) individual ("constitutional") rights have a treaty basis, as in the minorities treaties; (6) constitutions require legislative assent to declarations of war, and embody the principles of the Kellogg Pact; (7) "moral disarmament" is sought through rules of treaty and constitutional law which punish incitement to war.

One can only say that the list is impressive but fragmentary, and that these twain have only moments when they are one flesh. The "unity of public law" may be on its way, but it is surely not yet here, except at isolated points.

M. Mirkine-Guetzévitch believes that the driving force behind the internationalization of constitutional law is the increasing democratization of constitutional law. "The constitution of the democratic state itself gives a guarantee of the observation of international rules; the despotic or dictatorial state gives no guarantee of the observation of these rules." Thus the immanent unity depends on the ultimate triumph of democratic forms. One suspects that for a long time the jurists will have to argue in some setting the question of primacy, but one must still be grateful to the author for his efforts (here and in the Hague Academy's *Recueil des Cours*, Vol. 38) to restore motion and an end to the theory of public law.

LLEWELLYN PFANKUCHEN.

University of Wisconsin.

The Russian Revolution, 1917–1921. By WILLIAM HENRY CHAMBERLIN. (New York: The Macmillan Company. 1935. Two volumes. Vol. I, pp. xi, 511; Vol. II, pp. ix, 556.)

This work covers the period from the overthrow of the Tsarist régime in February, 1917, to the introduction of the New Economic Policy in March, 1921. It is essentially a narrative of the Bolshevik Revolution and the civil war which followed, and is based, the author informs us, on twelve years of study and research, carried on mainly in the Soviet Union. After three chapters designed to give a background of social forces and conditions, the full and wide narrative begins with the collapse of the Autocracy. Ten chapters carry the story through the spring and summer of 1917, and the remainder of the first volume continues it through Brest-Litovsk and the "breathing space" that followed that treaty. Volume II covers the terror (Red and White), the end of the Tsarist family, war communism, Allied intervention, the conflicts between the Red armies and the White armies, the war with Poland, the last stand of the Whites, the triumph of the Communist party, and preparation for "the world revolution."

Mr. Chamberlin seeks to write in the spirit of "objective detachment" and feels that he is "in a better position" to achieve that attitude than Russians, whose sympathies are enlisted on the one side or the other. "I

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have been at special pains," he says, "to place the establishment of the facts in the foreground and to offer only as much personal interpretation as seemed quite indispensable." He recognizes throughout (for example, Vol. II, p. 462) the nature of the class struggle in Russia, the long chain of persecutions, and the inevitable tragedy that inheres in every revolution. There can be no question of the author's intention to be "fair" and to present a wide pattern of authentic facts. And his work will undoubtedly be generally regarded as one of the few volumes on the Russian revolution that must be read by students of that cataclysm, especially as it partakes of the nature of an original source.

It would be easy to quarrel with Mr. Chamberlin about many minor points and to draw a picture of Lenin and his ideas quite different from that presented in Chapter VI. But the chief grounds for dissent are general, not particular. Mr. Chamberlin suffers from the illusion of many historical scholars who imagine that they can write history "as it actually had been." Mr. Chamberlin speaks of establishing "the facts." Now neither he nor anyone else can establish "the" facts of the period. He can establish "facts," and has sought to document the facts he has selected for presentation. What he and those who write in his manner fail to recognize is that they are selecting and organizing a few facts from the billions that are available, and that the whole operation of selecting and organizing is an interpretation. It is not only an interpretation of the events more or less covered in time. It is an interpretation of the nature of all history, of which the particular events form a small part. Mr. Chamberlin and many "objective" historians in the United States are still in the age of innocence. For them Croce, Heussi, Karl Mannheim, and a host of European scholars have labored in vain for years in their efforts to explore and answer the question: What is anybody doing when he is writing history?

CHARLES A. BEARD.

New Milford, Conn.

Stalin; A New World Seen Through One Man. BY HENRI BARBUSSE. Translated by Vyvyan Holland. (New York: The Macmillan Company. 1935. Pp. ix, 315.)

In this book the author of a searing World War novel, who recently died in Moscow at the age of sixty-one, attempts a full-length portrait of the man he describes as "the most important of all our contemporaries." In performing this task, Barbusse, according to the publisher's blurb, "was given access to documents that are ordinarily inaccessible to any but the heads of the Soviet government." Probably owing to this fact, he fails to indicate the source of any of his numerous references and quotations.

With the humorless fervor which often characterizes foreign converts

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to Russian Communism, Barbusse expounds the thesis of Stalin's infallibility in maneuvering, with admirable opportunism, between Right and Left deviations from Leninism. But where he rises to heights of real hero-worship is in his entirely pro-Stalin analysis of the "parasitic war" waged by Trotzky, "an obstinate and verbose Menshevik." Barbusse robs Trotzky of all credit for what have generally been considered his two principal achievements: the Brest-Litovsk negotiations and organization of the Red Army during the civil war period. He indicates that Lenin daily consulted Stalin before replying to Trotzky's communications from Brest-Litovsk, and that Stalin persuaded Lenin "to use his personal authority" in concluding a peace treaty with Germany.

It would appear, from Barbusse's book, that Stalin, in conversation and correspondence with Lenin, was constantly seeking to undermine Trotzky's position. In the chapter devoted to civil war, Barbusse quotes Stalin's remark that he had been "turned into a specialist for cleaning the Augean stables of the War Department," headed by Trotzky; his reference, in a report to Lenin, to "our military specialists (who are blockheads);" his mention, in another letter, of "the spirit of obstinacy, so short-sighted and so dangerous for the Republic, which is fostered . . . by the 'Ace of Strategists'."

Barbusse's idolatry of Stalin stems directly from his conviction that the Bolshevik revolution was designed to create "a real fellowship of labor, a society that should be entirely coöperative, without classes, without oppression or exploitation," which by its policy of combining broad cultural autonomy for national groups with political and economic centralization would solve the problem of world peace. To achieve this ideal end, all means, in his opinion, are justified. Under the circumstances, the problem of repression—which he does not deny—"is reduced to a question of the necessary minimum, having due regard to general progress. It is just as wrong to fall short of this minimum as to go beyond it. The man who spares people who are working against the cause of humanity is a malefactor. The duty of true kindness is to think of the future."

It is for fighting Stalin's conception of the future—which has been justified by the events—that he condemns the Trotzky opposition. He assails it on the ground that, instead of limiting its activities to officially permitted self-criticism and accepting the decision of the majority "more or less openly," it fought this decision and constituted itself "a permanent conspiracy." This view, like many others expressed by Barbusse, raises innumerable questions. Did Stalin's policy express the will of the "majority" in 1927? Were methods other than those of underground conspiracy—successfully used by Stalin under Tsarism—open to Trotzky and his supporters? But then, according to Barbusse, all opposition is

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vicious—except under capitalism and fascism; it is "a confession of retrogression, discouragement, incipient paralysis, and sleeping-sickness." With the myopic dogmatism which never fails to amaze liberals, this violent opponent of fascism argues that "when 100,000 people act together there must be some intelligence in what they do. . . . If Trotzky had been right, he would have won." Under this theory, a successful Hitler or Mussolini is *ipso facto* right, and the hundreds of thousands who march to the tune of fascism must have at least a glimmer of good sense.

Barbusse, however, believes that there can be no dictatorship in the U.S.S.R. because "Communism and Soviet régime develop along the lines of an extremely definite doctrine, of which the most important people are merely the servants." Does any "definite doctrine," irrespective of authorship and contents, remove the stigma of dictatorship from the government which applies it? But perhaps it is unfair to ask such questions of a man who ends on this note of humble adoration: "Whoever you may be, the finest part of your destiny is in the hands" of Stalin, "who also watches over you, and who works for you—the man with a scholar's mind, a workman's face, and the dress of a private soldier."

VERA MICHELES DEAN.

Foreign Policy Association.

The Essentials of Parliamentary Democracy. BY R. BASSETT. (New York: The Macmillan Company. 1935. Pp. 259.)

This is a re-examination of parliamentary democracy, especially as it exists in England. Democracy, the author concludes, is essentially a method of reaching political decisions rather than a condition of society or a state of mind. As for the method, it is not mere counting of heads; it is rather "a continuous search for agreement through discussion and compromise, and action on the basis of the maximum measure of agreement obtainable." One great advantage of the two-party system is that under such circumstances the parties necessarily appeal to many groups rather than single groups or classes, and discussion and compromise must go on continuously between various groups within the party, as well as between parties.

In general, the author finds less at fault with parliamentary democracy than many critics both of the Right and of the Left. Professor Ramsay Muir's criticism as regards the "dictatorship of the cabinet" is disposed of, as well as the prophecies of Laski, Cole, and other Socialist critics that democracy will not stand where there is not fundamental agreement between the parties as regards the ends of politics. Mr. Bassett urges that the only fundamental on which there must be agreement is that of the

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democratic method. While recognizing dangers ahead, he points out that, however great may be the difference in ends as regards doctrine, in practice the system of national rather than group or class parties, and particularly the two-party system, makes for compromise in action. Socialists will be inclined to disagree on the ground that the ends are so fundamentally opposed between socialism and capitalism that agreement upon the method may seem to either side less important than the achievement of the end in view; and they have the Nazi Revolution in Germany on their side of the argument.

The book is a welcome and dispassionate restatement of the liberal case. While the conclusions are not startlingly original, the treatment is eminently sane and well-balanced. As with most liberals of the Right, the emotional element is perhaps underestimated and the rationality of the political process over-stressed. But the book is a healthy reaction from the defeatist attitude of politicians and political philosophers as regards democracy in ideal and in practice. The style is admirably simple and direct and quite without the technical jargon which sometimes passes for learning. Unfortunately for the busy reader, there is no index, though there is a detailed table of contents.

ROBERT A. MACKAY.

Dalhousie University.

Hold Fast the Middle Way. BY JOHN DICKINSON. (Boston: Little, Brown, and Company. 1935. Pp. xi, 239.)

This is a rationalization of some of the major phases of the New Deal. The author, who incidentally is an influential member of the Roosevelt Administration, gives a straightforward, unembellished explanation of the government's middle-of-the-road policy. As the book is written in the spirit of sweet reasonableness, it furnishes a pleasing variation on the usual theme of distortion which characterizes so much anti-New Deal literature.

The depression which reduced masses of our people to a state of economic impotence threw into bold relief the maladjustments of our economic system and gave rise to an assortment of programs for the restoration of economic security. From the left has come demands for the substitution for "capitalism" of a "planned society," which would budget production and consumption, eliminate profits, and control investment; from the right, the demand that the government shall not intervene, except to restore pre-1929 practices, because governmental intervention constitutes an interference with "economic laws" or constitutional provisions, or both. The leftist or radical offers a solution which is no solution—his plan would put productive activity in a strait-jacket, "fix the initiating source of flexibility and growth at the top [in the hands of men

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actuated by ambition for political power, in place of men actuated by the profit motive] in a central agency of planning and control, rather than permit growth to come from the bottom, from the myriad individual centers of desires and experiment and ingenuity which make up the community," thus reversing "the healthy order of things" (p. 39). The reactionary on the right "shelters his prejudice against governmental action" behind "sloganized abstractions"—there must be no "artificial" interference with "economic laws," and there must be no deprivation of "liberty," *liberty* having reference almost wholly to economic freedom of action. "Reactionary and radical alike are harbingers of chaos," and "of the two, the influence of the reactionary is the more dangerous, both because it has a wider appeal to the inertia latent in human nature and also because it condemns us inexorably to the alternative of acquiescing in a breakdown of economic progress or else, out of despair, succumbing to the radical in the end" (p. 207).

So the government has held fast to the middle way, steering a course between the two extremes. It has adopted planning "in the more modest sense of attempting to figure out, with as much precision as practicable, what course is likely to yield the best results under the circumstances" (p. 50). Steps were taken to restore the balance in certain fields where malproduction had resulted from the sudden disappearance of foreign markets, due to the nationalistic economy of states, or to a decline in foreign purchasing power, or to the substitution of new commodities for old. A nation-wide increase in pay-rolls was inaugurated "for the purpose of increasing the effective consuming power of the wage-earning element among our people, along with the increase in farm purchasing power through the program of crop control" (p. 104). This procedure was novel but effective. To maintain stability of purchasing power, price stability has been sought through devaluation of the monetary standard and through a system of codes under the National Recovery Act. To save staple agricultural products, such as cotton, from collapse, a two-price system has been set up through the processing taxes imposed under the Agricultural Adjustment Act. This is a temporary expedient, a stop-gap. "The ultimate problem consists in discovering, while time is still available, ways and means either to shift over to other forms of enterprise the man-power which is now employed in producing our export surplus of raw agricultural staples or else through mechanization or otherwise to reduce the cost of their production" (p. 173). A comprehensive program of work relief has been adopted to care for the employable unemployed. Part of this program should be permanent, inasmuch as "the problem of relief promises to be with us in a greater or lesser degree, but more or less permanently, as long as our progressive type of economic organization makes the rise and fall of industries inevitable" (p. 201).

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This little book is especially recommended to those persons whose minds are so cluttered up with economic and legal formulae that they have lost touch with the realities of this topsy-turvy world.

RINEHART J. SWENSON.

New York University.

Negro Politicians; The Rise of Negro Politics in Chicago. By HAROLD F. GOSNELL (Chicago: University of Chicago Press. 1935. Pp. xxv, 403.)

Professor Robert E. Park provides a brilliant introduction to this almost exhaustive work on Negro politicians and voters in Chicago. Dr. Park quotes a speaker at Howard University who asked the students for a message to take back to their benefactors in the North. Thereupon a small voice piped up; "Tell 'em," it said, "that we'se a-ris'n!"

In the 403 closely packed pages that follow, Dr. Gosnell presents ample evidence to show how far and in what way the Negroes have arisen in and through politics. His remarkable book has already been awarded the John Anisfield prize of $1,000 for the best book of the year in the field of racial relations. This reviewer agrees with the author's prefatory statement that "there is no other detailed account of the political struggles of a minority group in an American metropolitan community such as the present volume furnishes." The work contains much information on, and a careful consideration of, such subjects as racial candidates for elective offices; the parts of the Negro political machine; Edward H. Wright, Oscar de Priest and other Negro leaders; the underworld and politics; Negroes in appointive positions; Negro police officers; and Negro teachers; and there are twenty-two tables of pertinent data, with two maps.

Dr. Gosnell's most frequently cited sources are newspapers—all the way from the colored *Whip*, the *Defender*, and the *Broad Ax* to the great metropolitan dailies of Chicago and New York—census reports and other statistical data, pertinent books and magazine articles, unpublished manuscript material, reports from student assistants, and personal interviews and observation of Negroes under a variety of conditions.

One possible criticism that might be raised against the book is that the author has been so indefatigable in gathering political data, and has used so much of the material that he has gathered, that his finished work reads more like an encyclopedia than a living biography or political study. A politician does not exist apart from time and space. Dr. Gosnell has most effectively described the larger environment in which the Negro is found, but the Negro himself does not come alive in these pages. The greater part of the voluminous data comprises the framework that encompasses the Negro politician rather than the man himself. Dr. Gosnell's invariable tendency is to discuss men as institutions, or historical events, but rarely

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as individual personalities that eat, drink, talk, and smoke. The discussion is usually external to the Negro. The interviews were either too brief or too formal to give one more than the sense of being merely an outsider watching strange phantoms striving for power and position. In spite of this possible deficiency, however, the book is sure to be exceedingly useful to every careful student of metropolitan politics; and the author deserves great credit for the thoroughness with which he has investigated his problem over a five-year period.

JOHN T. SALTER.

University of Wisconsin.

Local Government and Finance in Minnesota. BY WILLIAM ANDERSON. (Minneapolis: University of Minnesota Press. 1935. Pp. xii, 355.)

This is more than a monograph on local government in Minnesota. It represents the fruition of years of labor and of thought in the field of American local government by one of its best interpreters. Minnesota furnishes the rich mine in which Professor Anderson digs for significant data. The broad scope of the study is indicated by the three primary parts into which his treatment of local government is divided: (1) structure, (2) finance, (3) functions. Throughout, a nice balance has been maintained between data, generalizations, and principles of readjustment. The emphasis in the book is not that of an advocate, but of a scholarly and practical leader. The starting point is always what is, not what should be. Nowhere does the author press any claim for savings or efficiency through reorganization beyond the probable results in so far as the social scientist can gauge them.

Part I deals with the structure of local government. Minnesota has 87 counties, 95 cities, 637 villages, 1,929 towns, and 7,721 school districts, making a grand total of 10,469 local units. With reservations, Professor Anderson predicts that in the future "rural local units will have fewer inhabitants, and the pressure for consolidations will be somewhat increased." Minnesota, like so many states of the Middle West, presents an intricate pattern of overlapping units of local government, some of which are distinctly of the "poor relative" variety. For most counties, home rule is held "unnecessary and undesirable." Professor Anderson thinks it probable that the "Minnesota legislature has as much power as it needs to reorganize county government along modern lines." A series of charts on town, village, county, and city governments illustrate the commentary in the chapter on governmental organization. One striking fact is that of 103,524 public officers and employees, more than one-half hold elective positions. Only the three largest cities make general provision for the selection of employees upon the basis of merit as established by examinations.

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Part II, on local government finance, treats the subjects of local revenues, expenditures and expenditure control, debts, and state aid. In response to the clamor of groups pinched by the depression, the legislature has passed various classification, exemption, and tax reduction measures, the effects of which have not been altogether beneficial. The local tax base has undergone some restriction. At the same time, the legislature has increased state aid, for example, by passing an income tax and establishing an income tax school fund. Increased local expenditures from 1900 to 1930 were borne without great difficulty and contributed to the rising standard of well-being. After 1930, the drop in the real income of the population made local expenditures definitely burdensome. Debt-limit laws failed to prevent an unprecedented rise of local debts in the post-war period. Constructive attacks upon the aggregate burden of local debt have still to be undertaken.

Part III, on the functions of local government, is divided as follows: the range of the local services; local government and education; health and welfare activities; police, courts, and law enforcement; highways, roads, and streets; the twin-city metropolitan area; and the outlook for local government. A condensed table of the major services and functions of the local units of government is presented (pp. 231–233). The field of education presents a fundamental issue. Shall the dollar economy of the small school district, which provides on the average fewer educational advantages, give way to the increased cost of larger units? In the field of relief, it is doubtful whether the state can ever fully withdraw, even if the national government does so. The state is entering more and more into law enforcement by superimposing additional state law-enforcement agencies upon existing local forces. In the development of its road-financing policy, Minnesota has, in general, ignored the cities and villages, while accepting many of the burdens of the rural areas. In the twin-city metropolitan area, the creation of the Minneapolis-St. Paul Sanitary District may be the forerunner of a regional treatment of still other services.

Only through the enlargement, reorganization, and improved personnel of local units, concludes Professor Anderson, will the rush of functions to state and national capitals be checked. The desire of the American people for two incompatible things has been the stumbling block of reorganization: first, "complete local self-government in a system of small units," and second, a "standard of services higher than ever before and a distribution of expenses over wide areas, so that no local areas, especially not a poor one, will be unduly burdened." Professor Anderson clearly points out the irreconcilability of the elements of this paradox.

ARTHUR W. BROMAGE.

University of Michigan.

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Outline of Town and City Planning. By Thomas Adams. With a foreword by Franklin D. Roosevelt. (New York: Russell Sage Foundation. 1935. Pp. 368.)

Building Lines and Reservations for Future Streets; Their Establishment and Protection. By Russell Van Nest Black, assisted by Mary Hedges Black. (Cambridge: Harvard University Press. 1935. Pp. ix, 243.)

The underlying theme of Mr. Adams' book can perhaps be found in its Introduction. The author states: "What matters is not whether we plan, but whether we plan intelligently. This means, first, that we must have sound social and economic objectives; second, we must strive to achieve these by design based on knowledge and by methods that will lead to results; and, third, we must not over-emphasize the value of the administrative processes by which plans are carried out as compared with the technical processes by which plans are made."

The book deals to a certain extent with the technical processes by which plans are made, but more particularly with the history of town-planning. This reviewer would disagree with the premise stated in the Introduction, because the very best technical plans have no value other than for exhibition purposes if they are not carried out. Mediocre plans properly administered are sometimes much more effective, and have a greater influence for good on a community, than do plans which are technically perfect but which are not placed in the hands of competent administrators or public officials.

The volume is based to a large extent on a course of lectures on city and town planning delivered to students in the department of architecture of the Massachusetts Institute of Technology over a period of eleven years, and dealing in particular with the historical backgrounds of town-planning. It is divided into two general sections: "Early Efforts in Town and City Planning" and "Modern Phases of Urban Growth and City Planning." Under the first heading, we find a discussion of ancient city planning, planning during the Middle Ages, and planning during and after the Renaissance period; while in the second section an attempt is made to deal with developments in the United States both before and after 1900, with chapters on "Aims and Methods of Modern City Planning" and "The Future of City Planning."

As an historical outline for students in planning, the book admirably suits its purpose. Perhaps intentionally, and because the author is interested in design as against administration, there is an under-emphasis upon the administrative factors of town-planning. Thomas Adams is best known for his work as general director of plans and surveys of the very admirable "Regional Plan of New York and Its Environs," which, though perhaps the best example of "planning" of that character in this

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country, has suffered from lack of administrative agencies to make the plan effective. It is rather unusual in these days to find so much emphasis placed on design and so little on administration.

Mr. Black's volume, the seventh in the Harvard City Planning Studies, is a substantial contribution to the clarification and integration of the factual data pertaining to the planning instrument known as "building lines." A thorough and painstaking research, well documented, and covering the theory and practice of "the establishment and protection of reservations for future streets and future widenings of streets"—the object and function of building lines—is presented.

Cities, and to a lesser extent other governmental units, are continually, and at an increasing rate, faced with the necessity of remodelling old street patterns and widths to bring them into accord with the automobile age, and in proper relation to the needs and exigencies of an urban life very different from that which determined the physical layout of our communities. Mr. Black's study describes in detail the following aspects of the subject: the forms of legislation by means of which the lines are established; summaries of municipal experience in the techniques of establishing building lines; the legal basis, court decisions, and constitutionality; and the economies, or more particularly the important savings, which result from the use of building lines.

An appendix contains forms of legislation now in use in various parts of the country, and the text is well supplied with photographs, maps, and other illustrative material conducive to a proper understanding of the subject. The book contains data which are extremely useful to public officers and planning technicians, toward effectuating economies and increasing community amenity.

WALTER H. BLUCHER AND PAUL P. OPPERMAN.

Chicago, Ill.

Conflicting Taxation. BY THE RESEARCH STAFF OF THE INTERSTATE COMMISSION ON CONFLICTING TAXATION. (Chicago: The American Legislators' Association and the Council of State Governments. 1935. Pp. viii, 202.)

This volume on conflicting taxation, after a brief report of the Commission as to the tasks attempted, gives the work done by the research section under the leadership of James W. Martin, research director for 1934–35. The research work covers the following topics, among others: the problem of fiscal disorganization in the United States; approaches to the solution of tax conflicts; conflicting miscellaneous excises such as the taxes on gasoline, tobacco, electricity, admissions, alcoholic beverages, and corporate excises; sales taxes, state and federal; death taxes and the

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crediting device; the background of conflicting income taxes; personal income taxes and the crediting device; and some principles governing, first an immediate, and then a long-range, research program.

Recommendations of the Commission for immediate action include the following: gasoline taxes should be collected by the states, and not by the federal government; tobacco taxes should be collected by the federal government, and not by the states; electrical energy taxes should be left to the states; since Congress has already levied a tax on beer, the states, municipalities, and all other local governments should refrain from levying heavy taxes on beer save as they impose such taxes for regulatory purposes; gallonage taxes on liquor should be imposed by the federal government only, and that at a rate not exceeding $3.00 per gallon; and special attention should be given to a credit against the federal income tax for state individual income taxes, giving to the states, for example, a credit of 75 per cent of the tax on incomes below $10,000 and 25 per cent on incomes above that figure. The Commission leaves solutions of other questions of conflict to be recommended by either the second Interstate Assembly or the Tax Revision Council. This is not, therefore, a complete and thoroughgoing analysis of the conflicts of taxation in the United States in the federal government and the states and the agencies of the states. The research work, so far as it has gone, however, has been done thoroughly, as is reflected in the many tables and charts presented in the volume.

This book is put out by the new photo process and is, therefore, not set up in type. It, however, has a splendid appearance, and the subject-matter is well presented. Not all will agree with all of the recommendations made. For instance, the volume itself presents capably both sides of the question as to whether or not the states should be permitted to levy tobacco taxes in addition to those levied by the federal government.

CLYDE L. KING.

University of Pennsylvania.

Manifest Destiny; A Study of Nationalist Expansionism in American History. BY ALBERT K. WEINBERG. (Baltimore: The Johns Hopkins Press. 1935. Pp. xiii, 559.)

This book represents the newer approach to politics, in that it is an ideological analysis of political attitudes, or, as the author puts it, an "exploration of the complex motives of international behavior." That is to say, Mr. Weinberg has attempted to discover what sort of reasoning has moved us Americans to believe what we have apparently believed with respect to our relations with other peoples, and what has made us do what we have done in our actual relationships with these other peoples.

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In order to discover this rationalization of motives, Mr. Weinberg has taken fifteen concepts (such as Natural Right, Geographical Predestination, the White Man's Burden, Self-Defense, International Police Power, World Leadership) and has subjected each of them to the most searching analysis with respect to its origin and philosophic substance, the circumstances of its evolution and actual application, and the interpretations placed upon it by various important national leaders.

The results of such an analysis show clearly (1) that each of these concepts carries a distinct moral flavor; (2) that there has always been an effort to explain and to justify international policies as a rational application of one or the other of these generally accepted moral concepts; (3) that such rationalization is not necessarily hypocritical but may be entirely sincere; (4) that different groups may and do rationalize upon the same fundamental concept and use that concept to justify different, and even opposite, conclusions; and (5) that the general tendency of such rationalization has been for each concept to provide, within its historical period and setting, a pretext for expansion in the guise of the nation's "manifest destiny."

Thus Mr. Weinberg points out that the historic concept of natural right, as something bestowed by nature, divinely supported, and inclusive of moral truths, became a principal justification for civil liberties, popular sovereignty, nationalism, revolution, and hence of political independence and democracy. Out of this developed very easily the theory that, since political independence was "natural" and therefore divinely inspired, those who enjoyed this independence (that is, Americans) were to be considered as "the special champions of the rights of all men;" hence the doctrine of a national mission. It was now possible to justify expansion on two grounds, both based on the concept of natural right, first, in order to provide security for the democracy already established, and secondly, to carry out our "manifest destiny" of bringing the political and social blessings of democracy to others.

It is not possible to review similarly Mr. Weinberg's examination of all fifteen concepts. Suffice it to say that he has in every case made an extraordinarily penetrating analysis. In so doing, he has also written what amounts to an excellent diplomatic history of the United States, with special reference to the problem of imperialism. The book is by no means merely historical, however, but has its direct bearing upon present-day problems, such as those of isolation or international coöperation. The scholarly character of the volume is fully established by the fifty-five pages of appended notes, and its mechanical make-up is attractive. It should receive a high place in the literature of political science.

CLARENCE A. BERDAHL.

University of Illinois.

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Cuba and the United States, 1900–1935. By Russell H. Fitzgibbon. (Menasha, Wisconsin: George Banta Publishing Company. 1935. Pp. xi, 311.)

On June 9, 1934, a treaty between the United States and Cuba received final ratification. This agreement marked the end, officially, of one era in the relationship of the two American republics, for under its terms the United States relinquished the right to intervene under the famous Platt Amendment.

The diplomatic relations between the two nations during this era comprise the main subject of Dr. Fitzgibbon's well written study. The appointment of Leonard Wood as military governor, in 1900, is chosen as the point of departure, since "the constructive period of the intervention began" (p. vii) only at that time. The achievements of this first American administration, and of a second lasting from 1906 to 1909, have been treated with particular care and attention to detail, since the author feels that previous writers have tended to slight these periods of "most intimate contact." The course of the moves which resulted in the establishment of the Cuban Republic under the several limitations imposed by the Platt Amendment is likewise carefully charted, with an accumulation of evidence which points to Secretary Elihu Root as a dominant figure in the fixing of policy at this time.

The remaining half of the volume is devoted partly to the story of diplomatic relations from 1906 to 1935, and partly to an examination of certain economic factors. The shifting policy of the United States is traced from the inauguration of a "preventive policy" in the time of Taft through an increasingly arbitrary application of the principle in succeeding administrations until in 1921–22 General Enoch Crowder, sent to Cuba as a personal representative of President Wilson, became the most influential figure in the Cuban government, and then through the phases of something of a "hands-off" attitude adhered to after 1923. The two chapters on the place of the sugar industry and Cuban loans in the relations of the two republics are illuminating on the importance of economic factors in diplomacy. A concluding chapter on problems past and future is thoughtful and dispassionate.

A well chosen bibliography attests the author's scholarship, and an illustrative list of documents is appended. On the whole. Dr. Fitzgibbon's study is a distinct contribution to the literature of American relations in regard not only to Cuba but to the whole Caribbean region as well.

Donald Rowland.

University of Southern California.

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War Memoirs of Robert Lansing, Secretary of State. (Indianapolis: The Bobbs-Merrill Company. 1935. Pp. 383.)

This posthumous volume is valuable for the light it throws upon the inability of the mind of Robert Lansing to go along with the mind of Woodrow Wilson. The writer states that Wilson "was convinced that we were of the same mind" when assigning him to Bryan's seat in the cabinet; but within forty-eight hours of taking charge of the Department of State he proved Wilson to have been mistaken by preparing a memorandum: "Consideration and Outline of Policies." The valuable part of what is here printed relates closely to this and other memoranda in which Lansing set down for his own comfort, and perhaps against an evil day, the fundamental difference between his own desire and the policy forced upon him by his chief. Some of these memoranda, already available in *The Peace Negotiations; A Personal Narrative* (1921), sustain the fact that Lansing was following Wilson "only with increasing reluctance." Taken together, the two volumes lessen confidence in the administrative soundness of Wilson, who retained near him an adviser whose mind he did not trust, and in the sense of propriety of Robert Lansing, who clung to an office when he could no longer serve the President.

The memorandum of July 11, 1915, interprets the period in which the United States was neutral. Like Wilson, Lansing was willing to maintain a scrupulous neutrality; but for quite a different reason. Wilson had it in mind to stay free until at the end of the war the United States might mediate with advantage. Lansing was willing to stay neutral only because his judgment told him the people were not ready to go to war with Germany. Until they should become convinced with him that Germany was an enemy of civilization, prudence dictated neutrality. But he was sure of "the actual participation of this country in the war in case it becomes evident that Germany will be the victor. A triumph for German imperialism *must not be.*"

The consequence of this conviction is stated, if not proved. Lansing suggests that the American notes to the Allies were drafted to protract discussion, not to bring controversy to a crisis. He avoided what might lead to a break with England. "Everything was submerged in verbosity." By evading settlements, he left the United States "free to act, and even to act illegally, when it entered the war." But he does not state that Wilson was in collusion in this; and the evidence of continuous interference by the President in both the doctrine and the phraseology of the notes lessens the probability that they were so distorted as to defeat the President's intent.

Lansing was anti-German rather than pro-Ally. He was disgusted with Page, to whose pro-Englishry he attributed some of Wilson's acidity towards England. He believed the maritime claims of the Allies to be

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illegal; but whatever was his failure to press the case, it was policy, not affection. He prodded his chief when Germany was the offender, and asserts that he delivered to von Bernstorff an unauthorized ultimatum that brought out the likewise unauthorized pledge of September 1, 1915.

Apart from its light upon the mind of Lansing, the memoir is unimportant. Its statement of events is conventional, and not always checked for accuracy. It includes commonplace comment on Washington life that Lansing would perhaps have eliminated had he been able to complete the revision of his manuscript. It shows him admiring and distrusting the President, disliking the dangerous ventures of House, and remaining on the job.

FREDERIC L. PAXSON.

University of California.

Ulysses S. Grant, Politician. By WILLIAM B. HESSELTINE. (New York: Dodd, Mead and Company. 1935. Pp. xxvii, 452.)

Herein is unfolded one of the strange and interesting tales of our politics. Lincoln used to say that the only two offices he ever held under the federal government were postmaster and president. Grant, however, packed his entire political experience into his eight White House years. Grant, named Hiram Ulysses, was given the name Simpson by a mistake of Congressman Hamer of Ohio in appointing him to West Point. Arriving at the institution, he accepted the name which the congressman had given him. From then on he was Ulysses Simpson Grant. At West Point, he was so interested in his work that he watched with hopeful interest a bill in Congress which bore prospect of abolishing the Academy. Graduating twenty-first in a class of thirty-nine, he was appointed brevet second lieutenant of infantry. From then until the Civil War his story is quickly told: several army assignments, including service in the Mexican War, a marriage to Julia Dent of Missouri, and successive business failures.

Then came the Civil War and Grant's opportunity. Grant's chief supporters were Congressman Washburne in Washington and John A. Rawlins in the Army. Rawlins was a powerful force in Grant's development. "His was a volatile personality." He was deep and loud of voice, excitable in manner, and given to swearing in "polysyllabic words and in iambic pentameter verse," and in times of need "his flow of oaths was satisfying to the most avid ear." Washburne was a very astute politician. After the war, the inexperienced Grant was elected president. Henry Adams looked for "a reign of Western mediocrity" and said, "I swear I feel as though I ought to give my soul a thorough washing." Grant, in the selection of his cabinet, "made Congress madder than the devil," to quote Adams. "Grant had followed the method of trial and error to ultimate military success. In the field of politics, he utilized these methods

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to gain political power, however much his tenacity and decisiveness might have obscured the process. In his political career there was much of trial and error, and there were battles which were as disastrous and as costly as Belmont, Cold Harbor, and the Wilderness." In his campaign for reëlection, Grant told Coupling that he would take no part in it. "It has been done, so far as I remember, by but two presidential candidates heretofore, and both of them were public speakers and both were beaten. I am no speaker and I don't want to be beaten." And he wasn't.

This is a good book. It has recovered much of the color and motion of that eventful period. It is extremely well written and is very interesting, and is well documented. There is too much stressing of the so-called forty years of failure. The author distinctly underestimates Lincoln's military ability and Stanton's administrative talents. There is no reference to Owen Wister's book on Grant.

PAUL M. CUNCANNON.

University of Michigan.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND POLITICS

A case study of a government corporation appears in Marshall E. Dimock's *Developing America's Waterways; Administration of the Inland Waterways Corporation* (University of Chicago Press, pp. 123), made at the invitation of the Secretary of War, as was also Professor Dimock's study of Panama Canal agencies. The author furnishes a comparative analysis of water and rail transportation, concluding that waterways are economically an essential part of a national transportation system. He then examines administrative organization in detail as to personnel, divisional set-up, over-head control, financial practices and control, and other related items. Some conclusions are that the Inland Waterways Corporation should continue under the Secretary of War, should have an effective board of directors and a full-time general manager, should be operated from the river rather than from Washington, should strive for economic or corporate self-sufficiency, and should not be put under the control of the Interstate Commerce Commission. Professor Dimock has grappled with that most significant problem—men versus system. He believes that, given the same type of organization and relatively equal personnel, the efficiency of government-operated enterprises will equal that of privately operated ones, and go beyond in the conservation of other essential values. He has not yet come adequately to grips with the problem of corporate control, as a comparison of his discussions of the board of directors problem in the Inland Waterways Corporation and the Panama Railway Company will show. His proposals do not make clear

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what the relationship is to be between Congress, the Secretary of War, the desired effective board of directors, and the general manager of the corporation. Because of national defense considerations, the problem is especially complex in the two agencies studied. Professor Dimock's able and objective pioneering has set a high standard for future studies of that highly controversial subject—government operation of economic enterprises.—HARVEY PINNEY.

In Professor John D. Black's *The Dairy Industry and the AAA* (Brookings Institution, pp. xiv, 520) is continued the study sponsored by the Brookings Institution of the economic effects of the Agricultural Adjustment Act. After discussing the operations of the dairy industry under the A.A.A. for 428 pages, the author concludes that "nothing much . . . can be definitely set down" to measure the influence of the act on dairying. It is his belief, however, that the marketing agreement and licenses have raised the prices of milk and cream, but to what extent the author does not venture to state. In fact, he leaves the field of applied economics and enters the realm of psychological attitudes and morale, the conclusion being reached that "more important than any financial returns . . . are certain contributions to improved well-being, attitudes, and morale" which exist amongst dairy farmers as a result of the administration of the act. Some of the A.A.A.'s unfavorable features in relation to dairying are pointed out. The act itself was hastily formulated and crudely designed; too much reliance has been placed upon the capacity of a government fiat to solve long-standing problems affecting the dairy industry; and the law has been poorly administered. Although the Schechter case had been decided before this treatise left the press, the author did not undertake to speculate on the constitutionality of the Agricultural Adjustment Act.—GEDDES W. RUTHERFORD.

The experiences of the last six years have tempted Walter Lippmann in *The New Imperative* (Macmillan Company, pp. 52) "to isolate and define the influence of the crisis upon the traditional view of the function of government in the United States." He finds that in addition to the older functions of national defense and the preservation of domestic peace, there has been added a new function, viz., the maintenance and defense of the popular standard of life. This imperative must be attempted because "with the economic order incapable of maintaining itself by individual adjustments alone," the democracy clothed with political power "will turn to the state for help whenever capitalism is unable to satisfy their habitual expectations . . . and will follow leaders who at least promise to try" to satisfy those expectations. Mr. Lippmann insists upon the options that are available to a group in the process of adjustment and survival. He warns: "If the conservatives, thinking that all public control

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leads to communism," refuse the mandate to fulfill this new imperative, they will renounce their title to govern. But he adds: "If the progressives attempt to discharge that responsibility by measures that are imitated from Europe, they will come to grief upon the rocks of the American political tradition." In the first essay on "The Permanent New Deal," Mr. Lippmann suggests that Mr. Hoover's decision in 1929 committing "the government to the new function of using all its powers to regulate the business cycle" is irreversible. His successors will follow his example, not only to offset depression but to prevent it. In the second essay, he urges that we face the necessity of reconciling American political traditions with this new political activity under Hoover and Roosevelt. Either we will successfully govern this capitalist democracy under this new imperative without sacrificing personal liberties to the authority of the state, or we will be swallowed up by an imperious state socialism. It is "the promise of American life that men can govern a state in order to enlarge and preserve the rights of men."—RUSSELL M. STORY.

In the fourth edition of his well-known and convenient *Leading Constitutional Decisions* (F. S. Crofts and Co., pp. xiii, 432), Professor Robert E. Cushman has replaced the Myers case, Tyson & Bros. v. Banton, and Corrigan v. Buckley with Rathbun v. United States, Nebbia v. New York, and Norris v. Alabama, respectively, and has added—among cases bearing upon the Roosevelt Administration's recovery program—Schechter v. United States, Norman v. Baltimore and Ohio Railroad Company, Perry v. United States, Home Building and Loan Association v. Blaisdell, and Louisville Joint Stock Bank Company v. Radford. As in previous editions, many other cases are cited and summarized in the editor's explanatory notes.

STATE AND LOCAL GOVERNMENT

Crime and the State Police (University of California Press, pp. 226), by August Vollmer and Alfred E. Parker, gives an account of the movement toward the establishment of special and general state police forces, the increasing complexity of crime problems, and the training and equipping of state police; makes comparisons with central police forces in foreign countries; and offers recommendations on the establishing, training, and equipping of state police forces. At the present time, only eight states are without some kind of highway police. Many states have other special police of one kind or another, such as game wardens, excise police, and food inspectors, but only twelve have regularly organized forces of state police with general jurisdiction, and, the authors believe, no state is properly organized to defend itself against the modern criminal. The work of state police has generally been of a creditable nature. The forces

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have been comparatively free from political interference. However, organized labor and local law enforcement officers are uniformly opposed to the establishment of state police. On the whole, the qualifications and training of state police are of a high standard. It is suggested that military training as a qualification for a state policeman has perhaps been overemphasized. The authors' ideal would be a single state police force, and complete elimination of village, town, municipal, county, and miscellaneous state police forces. The selection, control, and management of the force would be in the hands of a single executive selected on a merit basis, with security of tenure. Members of the force would be men of superior education, intelligence, character, and physique. Adequate equipment, complete record and communication systems, and a public relations bureau would constitute other features of the ideal state police system.—P. S. SIKES.

In *The Political Clubs of New York City* (G. P. Putnam's Sons, pp. xii, 360), Professor Roy V. Peel reaches out for a research morsel which for a generation has tempted the political investigator. He takes in all the phases of the political club life of New York City—types, origins, motives, activities, leaders. A careful reading discloses that nothing is omitted. The active, the tottering, and the defunct are included. It is a combination political study, almanac, and directory. With his investigators he has spotted every political organization. Despite all the care with which Professor Peel has collected his material and put it together, one questions the value of a work of this kind. When the reader is through, he may be tempted to ask, "What of it?" Truly enough, it represents the kind of thing that has been done, and probably will go on being done, in the field of politics. The painful gathering of factual data and minutiae, important though obvious, indicates the absurd struggle among students of the social studies to be scientific at all hazards. This sort of effort reaches the ridiculous in Chapter VIII, which is a consideration of "Club-Quarters: Locations, Types of Houses, and Equipment." In this we read: "We found the entrance on — street and, noting a light in the windows of the second floor, we went up the stairs. There was a small landing at the top, with open doors on the right and the left. We entered the one on the left and found a small office, equipped with a roll-top desk and a flat desk. . . . Two walls were crowded with pictures. . . . On the third there was a glass case containing," etc., etc. Included are numerous snapshots of club exteriors and interiors, proving, no doubt, that political clubs differ from other clubs in that they are located in buildings rather than vacant lots exposed to the elements. What important motive impels Professor Peel to give his readers the following formulas of effective action in clubs is difficult to conceive: "programs should make use of group

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effort"; "club programs should be attractive"; "club programs should be properly organized"; "activities should be planned and related to the objectives of the organization." And—some people like their eggs turned and some like them sunnyside up. All the things we have known or strongly suspected of clubs and their leaders are here to read. But why should we read about them in a mass of overworked detail?—JEROME G. KERWIN.

In a monograph entitled *Approaches to the Measurement and Reward of Effective Work of Individual Government Employees* (National Municipal League, pp. 44), Samuel C. Ordway, Jr. and John C. Laffan, of the New York City civil service commission, analyze the subject of employee rating with particular reference to the civil service of the city of New York. Previous experiments in New York and elsewhere as well as the technical literature on the subject are critically examined and appraised. The authors lay down eleven conditions which must be fulfilled by a rating scheme and present a plan which meets these limitations. The plan proposed is a modification of the one now in use in New York City. Semi-annual reports are to be requested from each department. Those employees who have not done some outstanding act deserving merit or demerit are to be reported upon in groups, and, in general, are to be given credit for seniority by the rating board of the civil service commission. Others who seem to the reporting officers to deserve greater recognition or censure are to be reported upon individually, the reporter offering concrete evidence in support of a claim for extra merit or demerit ratings. The appointment of a personnel clerk in each department is strongly recommended. This would seem to be a move in the direction of the British establishment officer and would carry out a proposal of the Commission of Inquiry on Public Service Personnel for the creation of such offices in all large governments. The whole scheme appears to be well designed to determine those to whom salary increments should be given, but less suitable for the discovery of persons qualified for promotion. The emphasis is upon performance rather than upon capacity. Many features of the scheme are novel, and it is to be hoped that New York will give it an early trial.—HARVEY WALKER.

In *Local Government and Administration in Louisiana* (Louisiana State University Press, pp. 333), R. L. Carlton offers an excellent contribution to the growing literature of local government and administration. In a well organized and very readable manner, the author presents an extended study of the background, development, and present status of rural and urban governmental institutions and functions in the state. Copious footnote references and explanations, several well chosen appendices, and an extended bibliography add to the usefulness of the work. A liberal

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amount of space is given to the historical background and development of local government because of the "terminology and organization peculiar to Louisiana." This is followed by a description of the areas of local government, including parishes, municipalities, and special taxing districts. The major portion of the study is devoted to a consideration of the powers and duties of these areas in carrying out various state and local functions. Professor Carlton recognizes the inertia toward change in government and attempts to temper his suggestions accordingly. However, he makes some rather sweeping recommendations. He would have all powers and functions of local government ultimately lodged in the hands of the state government, enlarged and "naturally" delineated commission-manager parishes, and cities. The state would assume a larger share of the expense heretofore borne by local areas, take over many of their functions, and exercise a vigilant supervision of those functions remaining. Except for closer state administrative supervision, no noteworthy changes in city-state relationships are suggested.—P. S. Sikes.

In *Fees and Other Non-Tax Revenues of Minnesota Local Units* (University of Minnesota Press, pp. 144), Arthur M. Borak and Gladys C. Blakey summarize the results of an intensive investigation of these sources of revenue. In 1932, in the counties of the state, they found that 2.12 per cent of all revenues was obtained from fees, licenses, fines, and institutional receipts. Some 8.16 per cent was composed of miscellaneous receipts from loans, sales of securities, board of prisoners, rents, interest, etc. In the cities, non-tax revenues played a larger part. In forty-three cities, in 1932 and 1933, non-tax receipts amounted to 13.02 per cent and special assessments to 11.46 per cent of all revenues. Similar studies were made in certain villages, towns, and school districts. The survey demonstrated that non-tax revenues, in general, could not be increased to the point where they would afford any appreciable relief to taxpayers. An exploratory study was made of the revenues derived from publicly-operated utilities. "On the face of the records and the data that are available, it appears that some municipalities which operate their utilities efficiently contribute services or funds equivalent to taxes, whereas in other municipalities the utilities incur deficits that have to be made up by taxpayers" (pp. 86–87). This report is based on a thorough fact-finding investigation, and the generalizations and conclusions are adequately supported by the facts.—Arthur W. Bromage.

Some of the fruits of more than a decade of research in legislative procedure by Professor Frederic H. Guild are disclosed in a mimeographed bulletin of the Kansas Legislative Council entitled *Expediting Legislative Procedure* (Research Dept., Kansas Legislative Council, pp. 45). Nineteen tables and four charts assist the text in pointing out where delay occurs,

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in indicating the conditions and practices responsible for delay, and in showing where time-consuming practices can best be contracted without impairing the ability of dissenting lawmakers to counsel caution or reconsideration. Much of the factual data are drawn from Kansas experience, but the accomplishments of intelligent legislative planning in other states are also freely utilized. This bulletin presents good hard facts and sound counsel that should be of genuine service to any person or organization concerned with the more effective workings of legislative bodies.—CHARLES S. HYNEMAN.

In publishing Lyndon E. Abbot's *A Manual of Tax Collection Procedure for Texas Cities* (University of Texas, Municipal Studies, No. 2, pp. 107), the Bureau of Municipal Research of the University of Texas has made available to municipal finance officials an excellent practical handbook on the collection of the general property tax. The study is based on a survey of practice in Texas cities, but the "data yielded by the survey have been subordinated to a statement of the fundamental principles required by the best practice" in the field. Although designed for the cities of one state, officials in other jurisdictions will find the study useful, particularly in its treatment of delinquent tax collection. Liberal use is made of illustrative forms and "pay-your-taxes" circulars and leaflets.—V. O. KEY, JR.

The Social Security Program (Kansas Legislative Council, Sections I, II, pp. 62, 45) offers what seems to be a thorough analysis of the nature and purpose of the federal security program, together with the arguments which have been offered in support of or in opposition to it. The format of the publication is admirably designed to encourage reading and facilitate understanding.

FOREIGN AND COMPARATIVE GOVERNMENT

The long-awaited fourth edition of Sir William Anson's *The Law and Custom of the Constitution*, Volume II, "The Crown" (Oxford: Clarendon Press, Parts I and II, pp. xxxi, 325; xv, 414), prepared by the indefatigable Professor A. B. Keith, has now appeared. Twenty years have elapsed since the third edition was published—a period that has witnessed many and great changes in the English constitutional system and in the practical workings of government—and it has fallen to Professor Keith, while preserving the general form, the historical approach, and a great part of the subject-matter of the earlier edition, to recast the work throughout, condensing passages, omitting minor details, and writing in a number of new chapters or portions thereof. All this he has sought to do without substantial alteration in matters of opinion, and without injecting his own personal views on controversial topics. Portions of the work which have

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been notably expanded include those dealing with the relations between the crown and the subject, the position of the crown in litigation, and the status of Ireland, the dominions, and other areas within the Empire. Portions that are largely or wholly new include notably those having to do with the delegation of legislative powers to the crown (Chapter IV). Except as obvious on chronological grounds, what is Anson and what is Keith can be determined only by more or less laborious checking against the previous edition, and one could wish that by the use of brackets or otherwise the contributions of the later writer had been made more readily apparent. Such a procedure might, however, have seemed to impair the essential unity of the work—a quality no less conspicuous now than when the treatise first came from the original author's scholarly pen—and anyway the point is less important than it otherwise would be because of the work's predominantly factual character. Even the provocative subject of administrative legislation and adjudication is discussed with such objectivity as to leave the reader quite in doubt as to Professor Keith's personal views. As illustrated by the recent suppression of the senate of the Irish Free State, the treatise is already out of date in a number of respects. For years, however, it will likely remain the surest avenue to accurate knowledge of the multifold subjects with which it deals.—FREDERIC A. OGG.

Concerning *The Growth of Fascism in Great Britain* (George Allen and Unwin, Ltd., pp. 141), by W. A. Rudlin, Professor Laski writes in an introduction that the book "will have amply served its purpose if it induces the reader to realize that the tendencies which have produced fascism on the European continent are by no means absent in this country [i.e., England]." To be sure, Britain has up to now escaped the rigors of fascism in its classic form. There is no dictator; Sir Oswald Mosley's New party proved a flat failure; his British Union of Fascists has a membership which not even the most competent English observers can positively ascertain, but which probably does not exceed one hundred thousand; and in general the movement seems to have passed its peak. Two main conclusions, however, emerge from Mr. Rudlin's temperate and able discussion: first, that the way for genuine fascism may yet prove to have been prepared unwittingly by Conservative and Conservative-minded National governments which, in such measures as the Trades Disputes and Incitement to Disaffection Acts, have drastically curtailed the liberties of the subject, and, second, that among the Conservative "die-hards," the millions of readers of the Beaverbrook and Rothermere newspapers, the "white-collar" elements seeking to maintain middle-class standards on little better than working-class incomes, the hosts of unemployed, and the half of the electorate (so affirms Mr. Rudlin) which is "virtually in-

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different to the old parties," there is no lack of potential recruits for fascism. Mr. Rudlin does not prophesy, and he does not prescribe cures. He merely analyzes contemporary British political and economic life in quest of tendencies and possibilities, and discovers, amid much uncertainty and confusion, reactionism in high places and susceptibilities in lower which at least disprove that his country is by nature immune from fascist influences, however unlikely it may be ever to yield to Continental methods and forms.—FREDERIC A. OGG.

In its Publication No. 6, the Hoover War Library presents *Out of My Past; The Memoirs of Count Kokovtsov* (Stanford University Press, pp. 615), edited by H. H. Fisher, and translated by Laura Matveev. Although the author, a Moderate Constitutionalist devoted to the imperial family, served the Tsarist government from 1873 to 1917, he limits his main account to his period as minister of finance, 1904–1914, during the last three years of which he was also chairman of the Council of Ministers. His sources, as described in the preface, were brief notes he made of conversations and events while in office. The final chapters, dealing with the war period after his dismissal in 1914 to his escape through Finland in 1918, are extremely sketchy, indicating abstention from the whirl of events and a consequent lack of brief notes. In reading the volume, one wonders why Count Kokovtsov felt compelled to devote so much space to self-vindication. His difficulties in attempting to balance the budget of the autocracy are matters of record elsewhere. There are, however, many interesting bits, e.g., on the Chinese Eastern Railway, the Austrian annexation of Bosnia, and a chapter on the Empress. Throughout the tale of years runs his never-ending controversy with Witte. In defense of his conduct of office, he writes, as of the moment of his dismissal in early 1914: ". . . the financial situation of the country was excellent." Further, p. 465: "The progress of Russian industry during the decade was a normal development, based upon the economic and political foundations of the state. And on these firm foundations, had it not been for the Bolskevik catastrophe, it would have continued its swift and powerful development in perfect harmony with other manifest developments in the country's economic life and with parallel growth of public prosperity." This seems to be in direct contradiction to the findings of the Brookings Institution study of 1924, *Russian Debts and Russian Reconstruction*, to the effect that even before the war Russia could meet interest payments on her foreign debt only by further borrowings. The importance of these memoirs is in their striking contribution to the record of the unfitness of the Tsarist government to rule—a record of personal feuds, intrigues, and dissensions in high places, upon which 1905 had made but little impression. The editing of the volume attains the usual high excellence of the

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Hoover War Library. There is a useful itemized table of contents, and an index; and the editor's notes to successive chapters serve as a biographical guide to the galaxy of names mentioned in the text. Portions of the original text considered of secondary interest were wisely omitted. The title might also have been changed to read: "Unconscious Confessions of the Autocracy."—BRUCE C. HOPPER.

Sir John Marriott's *Dictatorship and Democracy* (Oxford University Press, pp. ix, 231) adds another item to his long list of convenient manuals for students. In some 75,000 words, he summarizes the familiar facts of history regarding concrete political institutions, all built around the concept of autocracy and its constant competitor, the democratic ideal. One-fifth of the space is bestowed upon ancient Athens and Rome, including a useful reminder of what the classic dictatorship really meant, a temporary expedient for saving the nation in crisis. In view of the present situation in Europe, the transition from true dictatorship to absolutism would seem to call for treatment, but the author excludes it; after two chapters on Sulla and Caesar, Augustus is dismissed with two short sentences. After a brief comment on the Renaissance despotisms, including an apt characterization of the Tudor "dictatorship," there follows a pedestrian treatment of the familiar facts regarding the evolution of cabinet government in the so-called democratic countries. Then follow four short chapters which summarize the story of how the Soviet "dictatorship of the proletariat" and the régimes of Mussolini and Hitler came into being (with incidental comment on Kemal and Rivera, both idealized). Here is nothing new. The background is sketched on so all-inclusive a scheme that the discourse reads like a history syllabus. For Germany, we have so much of Golden Bull, Frederick II, and Frankfort Parliament that the Third Reich gets less than three pages; Hitler's position is "very strong;" the German people are "inspired with a new faith and fresh hope." The space assigned to Russia and Italy is better employed, and we get passable descriptions of the governmental schemes. The tone of treatment may be inferred from the remarks that "the Russian peasant knows neither self-government nor good government;" that Mussolini is "a political genius of the highest order;" and that where [in Italy] "chaos formerly reigned, there is today order and discipline."—HENRY R. SPENCER.

A large part of the data in Professor Walter Thompson's *The Control of Liquor in Sweden* (Columbia Univ. Press, pp. 244) were collected prior to the repeal of the Eighteenth Amendment. However, this does not detract in any way from the value of the work as a study in the actual operation, as well as the background and legal plan, of an extremely interesting system of social control of the liquor traffic. The author permits the reader

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to judge for himself what parts of the Swedish system might be adapted to the United States, after he properly points out that the whole is not applicable but that certain portions are worthy of consideration. Quite a number of features of the Swedish system (incidentally, the least effective in Sweden) are being experimented with in several American commonwealths. The extensive control by what amounts to social ownership and the elimination of profit has been the most successful part of the Swedish system, but this feature has been omitted from American systems except in so far as the state of Virginia has the right to state manufacture and several other states have requirements that all beverages and liquors above certain alcoholic content shall be purchased by or through the state. In contrast to the American attack on the liquor problem in 1935, one is struck by the degree of coördination in Sweden in all phases of liquor control—from the quasi-public ownership of all retailing and the paternalistic control of the individual's consumption to an efficient police system and a subsidized temperance educational program by the state. The genius of the Swedish people in evolving a complex and, according to Professor Thompson, a workable plan of social control of liquor is shown in the book. Such factors are expanded as the willingness to subordinate revenue considerations to a control policy, the small amount of public drinking in Sweden, the innate preference for hard liquor by the Swedish nation, the natural civic spirit of the people, the ease of reconciling central with local control, and the eighty-odd years of a steadily evolving liquor control system unaccompanied by the type of extreme oscillations in policy with which Americans are familiar. Personnel and financial policies might have been expanded with profit, and some of the material in footnotes might have been given more prominence. But, on the whole, the student of government and public administration will find this a work of much interest.—MILTON V. SMITH.

Mr. Harold Macmillan is firm in his belief that a capitalistic state can introduce a system of planning which will at the same time preserve the price system and make unnecessary the further extension of state ownership and operation. Such a plan is outlined in bold strokes in a brief study entitled *Reconstruction; A Plea for a National Policy* (Macmillan, pp. ix, 130). The scheme, which at many points resembles the fascist corporative state, is based upon the principle of industrial self-government, at the top of which is a central economic council designed to serve as an adjunct to the parliament. The proposal is ingenious, and it is presented effectively; but, like all such plans, it depends upon what is, in this country at least, an uncertain thing, namely, an adequate sense of social responsibility on the part of a majority of the manufacturers in each division of industry.—GRAYSON L. KIRK.

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Students of social change will find Henry Elisha Allen's *The Turkish Transformation* (University of Chicago Press, pp. ix, 251) an unusually satisfactory treatment of developing nationalism. Education and religion are analyzed at some length; also there is a shorter but still adequate statement of the historical and political background. Turkey is preoccupied with two great tasks: the mastery of Western scientific technique and the building of a nationalistic state. "Devotion to the national government seems fairly to have supplanted loyalty to any other individual, creed, or institution as the foremost duty of Moslem Turks (p. 221). Consequently, "Islam's chief danger would seem to be neglect" (p. 227). There is a bibliography and an index.—DONALD C. BLAISDELL.

Students of parliamentary procedure will find a good deal of curious, if not always useful, information brought together in Volume III (for 1934) of *Journal of the Society of Clerks-at-the-Table in Empire Parliaments* (Billing and Sons, Ltd., pp. 142), edited by Owen Clough. Twenty-one chapters present current data for the British, dominion, and provincial parliaments or legislatures relating to matters ranging all the way from disputed election returns and seating of members to parliamentary catering services and reduction of noise in buildings. In Chapter XVII, the editor has tried his hand at compiling a list of books published in 1934 and recommended for addition to the libraries of overseas parliaments.

INTERNATIONAL LAW AND RELATIONS

The Soviet Union and World Problems (University of Chicago Press, pp. xviii, 254) comprises the 1935 Harris Foundation lectures. The editor, Professor Samuel N. Harper, has included appendices giving texts of various treaties and important pronouncements of Russian policy, together with a series of cartographs and charts illustrating trade and population changes. Especially noteworthy are two fine maps by John A. Morison, which show clearly not only the seven federated states, but also the various autonomous republics, autonomous areas, and national territories. Ambassador Troyanovsky, discussing the basic principles of Soviet foreign policy, stresses the anti-imperialistic and peaceful character of the present Russian régime. To obtain its peaceful ends, the government has negotiated neutrality pacts, then non-aggression pacts, and recently mutual assistance pacts. It has continuously favored disarmament. Professor Malbone W. Graham supplements Troyanovsky's statements by a factual recitation and analysis of the different security pacts. It is unfortunate that this essay should be handicapped by many long and difficult sentences. Special mention should be made of the concise description of the governmental machinery for the administration of Soviet foreign policy given in Appendix V. Mr. Boyeff, chairman of the board of directors of

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the Amtorg Trading Corporation, describes the administration of the state monopoly of foreign trade and shows how great a part this monopoly has played in forwarding Soviet policy. The development of industry and railroads in the East, the exploitation of new sources of raw material, and the extension of agriculture into the forest belt afford Vladimir Romm, special correspondent of *Izvestia*, an opportunity for many ecstatic remarks. Discussing the whole problem of socialism and nationality, Hans Kohn pays special attention to the enlightened policy of the Soviets, the essence of which is equal opportunity for every nationality to build international socialism. Throughout the book there is no word of criticism, no challenge of official pronouncements, and the Communist party is scarcely mentioned.—E. C. HELMREICH.

In *War Clouds in the Skies of the Far East* (G. P. Putnam's Sons, pp. 452), Mr. Tom Ireland, author of *The Great Lakes-St. Lawrence Deep Waterway to the Sea*, set himself the enjoyable but difficult task of analyzing the factors involved in the Far Eastern Question from the viewpoints of the Eastern states directly involved, the North and South American states (particularly the United States), and the disunited states of Europe. He has acquitted himself well. A considerable amount of time and energy has been expended in collecting, collating, and digesting the materials incorporated in his work. The result is a study to be commended to the thoughtful consideration of experts and laymen—especially members of Congress and the Departments of State and War—in any wise interested in world politics, international relations, contemporary civilizations, and Far Eastern and American history. "Popular" in his presentation, in that he has eschewed footnotes and bibliography, the author has avoided sweeping generalizations based on anonymous sources by naming in three introductory pages his basic authorities, listing them fully with each chapter heading, and mentioning them specifically, with the provenance of each, in the body of his text. Primary attention is centered on the development and application of the conflicting policies of Japan and the United States, with concentration upon the problems of Manchuria and naval rivalry. The theme of the volume, which is neither alarmist nor pro-Japanese, is that the United States has been pushed by the naval policy of Japan to a parting of the ways: either it must—ultimately—fight a war, or wars, with Japan to prevent that power from indefinite expansion in the Pacific and on the Asiatic mainland or retire definitely and permanently from Far Eastern lands and waters. Following a survey of the actual and potential interests of the United States in those areas, the costs involved, and several of the realities of the situation, a definite conclusion is reached. Perhaps the problem is not as simple as Mr. Ireland's complex but clear analysis appears to indicate. Perhaps

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it is not possible of reduction to alternatives. Nevertheless, his conclusion, his reasoning, and his presentation of facts, events, and conditions are worthy of most careful attention.—H. F. MacNair.

In her new volume, *Soviet Trade from the Pacific to the Levant* (Oxford University Press, pp. 238), Violet Connolly carries to successful completion her study of Soviet economic relations with Eastern countries. The first study stopped with the neighbors of the Soviet Union. The present one covers Japan, China, India, Egypt, Syria, Iraq, Palestine, Yemen, and Saudi-Arabia. The study of economic relations with these countries is prefaced by a valuable survey of the "Soviet Far Eastern Region." The author's point of view, that it is "impossible to form a just estimate of Soviet Russia's economic policy in regard to either China or Japan, if the nature and needs of the Far Eastern Region—the base of much of this trade—its agricultural and industrial structure and the plans for its development now launched by the Soviet government, were not in the first instance clearly understood," is sustained by the analysis in the succeeding chapters. From the economic viewpoint, it is made clear, for example, that the fisheries question is the most important one in the relations of Japan with the Soviet Union. That is strictly a Far Eastern question. Oil, coal, and timber, the next most important items in trade, are only slightly less so. Otherwise, the most important economic factor affecting the relations of the Soviet Union with both Japan and China has been the Chinese Eastern Railway. A separate chapter is consequently devoted to it. On the whole, the study reveals the relative unimportance of Soviet economic relations with the countries studied, largely due, so far as China and Japan are concerned, to the under-developed character of the Soviet Far Eastern Region. Almost half of the volume consists of valuable appendices.—Harold M. Vinacke.

In his recent book, *Ethiopia; A Pawn in European Diplomacy* (Macmillan Co., pp. xii, 354), Professor Ernest Work, of Muskingum College, has attempted with a fair degree of success to set forth a detailed account of the East African rivalries of the Great Powers. Except for one or two rather curious omissions, the author seems to have examined all of the relevant European documentary materials, and he has also profited by a period of residence in Ethiopia, where he served as an adviser to the Emperor. But even with this technical preparation, the book somehow fails to come off. It is obviously designed, despite the efforts of the publisher, rather more for the student of history than for the layman; yet there is little that is new to interest the former and it is much too detailed and too limited in scope to attract the latter. Moreover, it must be admitted that the combination of a chronological method with a separate discussion of the policies of each of the powers involves an unfortunate amount of

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repetition. In the matter of time, the book is essentially limited to the period from 1889 to 1906. Up to that point, the interpretation is both sound and conventional. Unfortunately, however, the author has added a final chapter in which he attempts in the space of sixteen pages to summarize the developments of the past thirty years and to estimate the forces involved in the present dispute. It would have been much better for all concerned if this chapter had been omitted. The reader is given almost no inkling of the Anglo-Italian conversations of 1925–26, and no indication at all of the complex forces which have motivated the Italian decision to reopen the whole question. Since this chapter was written shortly before the League meeting of last September, it is now completely out of date in so far as it attempts to appraise British and French policy. In the account of the earlier period there is one item of particular interest. From his examination of the Amharic texts, the author is convinced that the conflicting versions of the famous Article XVII of the treaty of Ucciali did not constitute either a mistake in translation or a deliberate attempt on the part of the Italian government to deceive the Emperor Menelik. He points out that the final Italian version of the treaty coincided, word for word, with the original draft as brought from Italy, and he therefore concludes that "it is more to the point to assume that in their anxiety to secure Ethiopia as a protectorate the Italians simply adopted the article as they had prepared it, without reference to the Amharic copy." Judging from the wretched job of proof-reading, it would seem that the author and publishers must have adopted the same tactics in connection with this book.—GRAYSON L. KIRK.

In his *Peace in the Balkans* (Oxford University Press, pp. ix, 209), Dr. Norman J. Padelford has done a neat job of utilizing his scissors and pasting together various reports on the Balkan conferences which not so long ago received a great deal of publicity. The job has been done so thoroughly that there is very little originality in it, although the work is a useful survey of the meetings of the conferences since 1930. Sometimes the author becomes over-enthusiastic and puts too much emphasis on unimportant points. Thus we learn that at the first conference the "Greek government graciously bestowed high decorations upon the various leading delegates from the different countries" (p. 22). The same lack of critical spirit appears in the evaluation of the movement which, the author states, "lays another cornerstone for faith in the effectivensss of international organization and the League of Nations" (p. 150). Equally questionable is the assumption that the movement "points to an end of internecine war within the peninsula, a removal of many of the causes of European strife, and the creation of *a* Balkan state." Quite useful is the appendix of 45 pages, containing "Advanced Project of a Balkan Pact

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Adopted at Third Balkan Conference," "General Act of Conciliation, Arbitration, and Judicial Settlement between the States of the Little Entente," "The Little Entente Treaties of Alliance," "Statute of the Balkan Entente," "Statute of the Balkan Entente Economic Consultative Council," "Little Entente Pact of Organization," and the "Argentine Anti-War Pact" of 1933. All in all, this book is in no sense a penetrating work of social or political significance, and the author frequently gives the impression of using a steam shovel to unearth a gnat or exploding a depth charge to bring up a periwinkle. Although the volume is an orderly résumé, there is ample room for a second volume approaching the subject with an inquiring mind that starts from scratch.—JOSEPH S. ROUCEK.

The mass of literature on the Samoan Islands continues to grow with the years, and not without justification. The Stanford University Press has recently issued what may be regarded as companion volumes that should appeal to historian, sociologist, and general reader alike: Sylvia Masterman's *The Origins of International Rivalry in Samoa, 1845–1884* (pp. 233), and Felix M. Keesing's *Modern Samoa* (pp. 506). Miss Masterman's study traces the origin of British, French, German, American, and New Zealand influence and interests in the islands from 1836 to 1884, beginning with missionaries and traders and ending with the jockeying maneuvers of the governments of rival Great Powers. This book of 233 pages, with maps and charts, is a well-written first installment of the old story of "civilized" Western peoples with conflicting ideals encroaching upon a primitive race and getting each other by the ears in the mad scramble for exploitation and imperialistic aggrandizement. Miss Masterman's book is fittingly described as "an essential historical prologue" to Dr. Keesing's sociological study of the government and changing life of present-day Samoa. The latter resulted from eight months of field work carried out under the auspices of the International Research Committee of the Institute of Pacific Relations as a part of its general project on "dependencies and native peoples of the Pacific." Dr. Keesing has presented a very clear picture of the difficult administration of the political, economic, social, religious, and educational affairs of New Zealand's mandated Samoan territory and of American Samoa.—J. VAN DER ZEE.

During the nineteenth century, North Africa served as an "arena of friction" wherein France, Spain, and Great Britain struggled to protect what were regarded as vital national interests. Dr. Francis R. Flournoy, in a scholarly monograph entitled *British Policy towards Morocco in the Age of Palmerston* (Johns Hopkins Press, pp. 287), has presented a graphic picture of the British government's policy during the period from 1830 to 1865 in maintaining the independence of Morocco in order to safeguard British interests. The geographical position of Morocco was al-

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ready recognized as of strategic importance in the short route through the Mediterranean to India and the Far East. The commerce of Morocco was of considerable importance, and Morocco also controlled the trade of countries to the south and southeast. In addition, Morocco supplied the fortress of Gibraltar with essential foodstuffs. It was therefore natural for Great Britain to protect this backward country from the imperialistic ambitions of France and Spain; and with a statesman like Palmerston in charge of the Foreign Office and a diplomat like John Drummond Hay in Morocco, the policy was outstandingly successful. Dr. Flournoy's well documented study is a valuable contribution to this period of world politics.—GRAHAM STUART.

Continuing his studies of the international status of private creditors, Dr. Martin Domke has completed an analysis of the gold clause in foreign bonds with special reference to the recent legislative and judicial action of the American government. In his *La Clause "Dollar-or"* (Les Editions Internationales, pp. 100), Dr. Domke differentiates between the effect of the American policies upon holders of American gold bonds, holders of foreign gold bonds, and foreign holders of American bonds payable in foreign countries. Basing his conclusions upon previous decisions of the Permanent Court of International Justice and of high courts in other countries, he holds that the Supreme Court's decision does not affect the last two groups of bondholders. It will be of great interest to have a decision by an international court on these conclusions, especially in view of the decision of November 8, 1935, in the King's Bench division of the High Court, in which apparently (according to newspaper accounts) it was held that the obligation of Great Britain under a bond of 1917 to pay in gold coin in New York had become void.—WALTER H. C. LAVES.

Volume II ("Disputes, War, and Neutrality") precedes in its appearance Volume I ("Peace") in the fifth edition of L. Oppenheim's *International Law* (Longmans Green and Co., liii, 782). Dr. H. Lauterpacht succeeds Professor McNair as editor, and like him, found it "altogether impracticable to distinguish between the text of the original version and the changes effected by the editor." For Oppenheim's personal text, the reader is referred to the second edition. Given the preface's guideposts and such distinguished results, the reviewer can see no objection to such a coöperative inter-temporal enterprise. The work remains one of the few indispensable works in English which does not treat international law primarily from the point of view of one state. Some of the new materials deal with the General Treaty for the Renunciation of War, the Manchurian dispute, and "Sanctions in the Theory and Practice of the League."—LLEWELLYN PFANKUCHEN.

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Number 13 of the "Classics of International Law," published by the Carnegie Endowment, is Christian Wolff's *The Law of Nations Treated According to a Scientific Method, in which the Natural Law of Nations is Carefully Distinguished from that which is Voluntary, Stipulative, and Customary* (Clarendon Press, Vol. I, pp. lvi, 411; Vol. II, pp. liii, 565). A perusal reveals how accurately the work corresponds to this title, and how different is Wolff's "positivism" from that of the digest or case-book. No atomist, Wolff could posit a *Civitas Maxima* with coercive powers over its member states. The introduction, written in 1917 by O. Nippold in Thun, Switzerland, looks expectantly toward his consummation. Volume I is a photographic reproduction of the edition of 1764. Volume II is a translation by Joseph H. Drake, professor of Roman law in the University of Michigan. Both are up to the high standard set in this series.—LLEWELLYN PFANKUCHEN.

POLITICAL THEORY AND MISCELLANEOUS

Rudolf Laun's *Recht und Sittlichkeit* (Berlin: Julius Springer, pp. 109) is an expanded Rector's inaugural address, first delivered at the University of Hamburg in 1924 and published in the same year. The author claims to be the first thoroughly conscious exponent of a new "autonomous" theory of law, as opposed to traditional theories, all "heteronomous." Much of the discussion is definitely Kantian, although Laun distinguishes his theory from Kant's in several respects. The final source and creator of law is the individual's own free ethical conscience (*Rechtsgefühl*), not an external legislator, be it God, Nature, an Austinian sovereign, or custom. Law is a self-imposed imperative. No amount of coercion, or customary observance, can turn a rule, existing in the realm of *Sein* or *Gewalt*, into law until it is endowed with normative or ethical "oughtness" by acceptance through the free subjective will(autonomous *Sollen*). Thus law and ethics are fundamentally part of a seamless web, although considerations of expediency may cause commentators to distinguish them by various arbitrary external characteristics. A "relatively objective positive law" is distinguished from pure ethics because such rules of "law" are (1) factually obeyed as a mass phenomenon, and (2) freely accepted as norms by most of those who obey. The reviewer agrees with these not too startling conclusions, except as to the second test of positive law just mentioned. He feels that the first test of general obedience of physical adherence, however motivated, to a set of rules should be the sole criterion to distinguish law from ethics. The "free sense of right" of the community, however important as a source and sanction of much law, is often too vague, ambiguous, or nearly non-existent to serve as a reliable objective test of its existence.—MAX A. SHEPARD.

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Economics of Planning (Philadelphia: American Academy of Political and Social Science, pp. 31), by H. R. Burrows and J. K. Horsefield, is a pamphlet reprint of a series of articles which appeared in the *Manchester Guardian Commercial.* The authors discuss the weaknesses of the competitive system, the efforts which have been made to overcome these weaknesses through planning both "within" the competitive system and through state action, and the lessons which seem to them to emerge from experience and analysis. They conclude that "no country yet possesses the capacity for government or for collective management, nor yet the detailed statistical information, to justify an experiment in wholesale planning, even if this were in other respects desirable, which is by no means true," and that "no theory has yet produced a better mechanism for satisfying wants than the combination of individual enterprise in production with the price mechanism in distribution." However, they then point out the necessity of implementing the public interest which is present in the efforts of private enterprise, suggesting that both public and private enterprise have a common objective in encouraging the most efficient use of resources, and list five major types of governmental policies which are required in order to achieve this protection of the public interest. Like most of the contemporary efforts to redefine a policy for free enterprise, the net amount of public control which is found to be essential to a working of the system is very substantial, and indeed well beyond what has been envisaged as conservative political policy. The pamphlet is a useful "assigned reading" for students in public administration, since it is an economic tract with important implications for politics and administration. *On Economic Planning* (Covici-Friede, pp. xi, 275) is edited by Mary L. Fledderus and Mary van Kleeck and contains the papers read at a meeting of the International Industrial Relations Institute held in New York in November, 1934. The topics discussed include economic theory of planning, standards of living, European and American experience, and the rôle of the technician and educator in planning; and among the participants in the symposium were economists, administrators, and journalists. The chief value of the papers to the student of politics lies in the effort to define and refine terms such as "planning" in the light of the various experiences discussed, and the resulting implications for the administrator.—JOHN M. GAUS.

A thought-provoking analysis of the factors which relate to our modern social problems is found in *Our Contemporary Civilization* (Henry Holt and Co., pp. xv, 608), by Roscoe Lewis Ashley. In form, and to a lesser degree in substance, this volume has many of the characteristics of books intended for use in introductory courses in the social sciences. It deals with the family and with the state, with business, educa-

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tion, religion, and science. It analyzes the problems arising in these fields and the part played in the development of our culture by the institutions in each field, particularly as related to the American scene. But Professor Ashley has done much more than write a text for an orientation course. While certain portions are elementary enough to be used in a beginning general course in the social sciences, he deals repeatedly with problems which are beyond the capacity of students who do not have a background of other courses or reading. The book should, however, prove admirably adapted for use in an integration course in the last year of undergraduate work for all those whose major interest is in the social sciences. It might well be suggested for reading for all advanced undergraduate students in these fields. That it is intended by the author for use as a text is indicated by the publication of a "study guide" to accompany it. The book itself contains several pages of carefully selected bibliography. To the conservative who believes that minor adjustments are all that is necessary to bring about a desired renaissance, the author's philosophy will be displeasing. On the other hand, it will be equally displeasing to those on the left who argue that revolutionary changes are necessary in order to bring about social justice. The viewpoint adopted is expressed in the words: "Our interest is not in a totally different social order. Rather it is centered in a new type of capitalistic society with business motives, if not business methods, analogous to those of the present; *but* organized on a public economics of plenty rather than a private economics of scarcity (p. 254)." Admitting weaknesses of democratic governments, especially in the field of administration, the author believes that the public interest must be guarded through greater government regulation, and that all large business has a public responsibility. Even here, however, he would not go so far as to advocate public management.—B. A. ARNESON.

The Social Sciences as School Subjects (Charles Scribner's Sons, pp. xiii, 541), by Rolla M. Tryon, constitutes Part XI of the Report of the Commission of the Social Studies of the American Historical Association. In conformity with the general aim of the Commission to study "every important element affecting school instruction in the social sciences, Professor Tryon's contribution presents a comprehensive statement of the practices relative to the organization and teaching of the social sciences in the elementary and secondary schools in the United States. The study is liberally supplied with charts giving comparative data concerning the development of the method and content of courses in the social sciences and the prevalence of these at various periods in the history of American education. The work is divided into five parts, of which the first deals with the efforts of large professional and welfare groups and of learned societies such as the National Education Association, the American Historical As-

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sociation, the American Political Science Association, and others, to produce a workable curriculum for the teaching of the social sciences. Parts II, III, and IV are devoted, respectively, to the values, content, and method of approach to materials in history, political science, economics, sociology, and general social science. Part V deals with the organization of the social sciences for teaching purposes. To the specialist in education and in the various fields of the social sciences, the study presents nothing startling or particularly new; it merely reveals in detail a situation which has long been known to exist. The study leaves the political scientist with the general feeling that neither the charts and reports in Part III nor the materials in Part V are as well developed for political science as those dealing with similar materials in history. The author's treatment of the subject is historical and analytical; it is a painstaking and clear exposition of data collected from many sources. He permits himself the liberty of one conclusion only: that there is no one method of organizing the social sciences for teaching purposes, but that the method must be adapted to the materials to be organized and to the pupils to be taught.—ELIZABETH A. WEBER.

There is little place for logic when emotion is aroused, and the logic of slavery was hardly calculated in the 1850's to appeal to the Abolitionists. Yet, as William Sumner Jenkins shows in his *Pro-Slavery Thought in the Old South* (University of North Carolina Press, pp. ix, 381), the case for domestic slavery was ably supported by men both humane and sincere. Two introductory chapters trace the history of pro-slavery thought as it progressed from the uncritical and mildly apologetic acceptance of colonial days to the militant justification of the institution on moral and economic grounds which characterized the period just preceding the Civil War. The remaining five chapters are devoted to an analysis of the various arguments advanced: the historical, the legalistic, the Scriptural, the ethical, the ethnological, and a host of others. It is probably the dogma of an inferior race, best expressed by Calhoun, which is most widely known of the pro-slavery arguments; but most suggestive is the defense in terms of the stability of society. For where labor is performed by slaves, there are no paupers and no unemployed. The life of the community fits into a predetermined but orderly pattern, not readily subject to change; and for that reason the ante-bellum South was impervious to the radical doctrines of the day—socialism, Fourierism, anarchism. The slave, we are told, was not property. Only his labor, which he sold for life rather than by day or week, belonged to his master; and if he was not free to bargain for his wage, neither was he free to starve. Mr. Jenkins has presented a stimulating and thoroughly documented study of a neglected phase of Southern thought which has considerably more than antiquarian interest.—CHARLES M. WILTSE.

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Political scientists who are interested in such problems as the isolation of legislative *blocs*, the correlation of election returns with social data, and the selection of tests for civil service examinations will find challenging material in L. L. Thurstone's *Vectors of Mind: Multiple-Factor Analysis for the Isolation of Primary Traits* (University of Chicago Press, pp. xvi, 266). Professor Thurstone has invented a high powered tool which can be used to study complicated interrelationships expressed in quantitative form. Already the method has been used to show the character of conservatism and radicalism as revealed in attitude scales checked by students and to identify significant categories in describing personality traits. The method makes it possible to handle many more variables than can be handled readily by partial correlation techniques. On the other hand, factor analysis makes it impossible to consider one variable as a dependent variable. All variables are treated as independent. In some political problems, it may not be logical to do this. Furthermore, it may be very difficult to give clear-cut definitions to the factors. However, all persons who are working on the border line between political science and social psychology should brush up their mathematics and examine the potentialities of this new method. Unfortunately, the book is couched in highly technical and mathematical language and makes very difficult reading. It is assumed that the reader understands calculus and will have little difficulty with matrix algebra.—HAROLD F. GOSNELL.

In *Europe's Crisis* (John Wiley and Sons, pp. 128), André Siegfried retells with generous platitude and easy generalization a familiar story. "Civilizations quite as highly developed as ours have existed before" (p. 11), but the material progress of man is due to the white race, and is a contribution of northwestern Europe. Through far-flung colonial empires and the "perfection and complexity of her economic life," Europe controlled the world in the nineteenth century. Now, however, the leadership of Europe is being challenged by the United States, the British Dominions—even by dark-skinned peoples, who refuse to serve us any longer. "Meanwhile we have lost faith in our own omnipotence and are sometimes even losing our pride, which if it did not make us loved, at least made us feared. . . . Europe must now alter her method of influencing the world. . . . Europe still retains two vital factors: her genius for creative invention and her appreciation of spirituality. . . . We are thus forced to rely upon our own superiority, the unique stronghold into which the overseas countries can penetrate only with difficulty: quality, services, international finance." The little volume concludes with a truly Hitlerian exhortation: "Let us not be crushed by the American masses or the Asiatic masses. Let us remain true to the spirit of the Caucasian host, for even the most punctilious racialists cannot pretend that it was not Aryan."—HERBERT W. BRIGGS.

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Readings in Recent Political Philosophy (Macmillan Company, pp. ix, 776), by Margaret Spahr, serves a very useful purpose by covering a period in the history of political thought which has been neglected by compilers of "Readings" and which has been inadequately treated by commentators. Dr. Spahr begins with the American and French Revolutions and brings her survey to date, introducing to us the leading theorists of post-revolutionary conservatism, utilitarianism, historical jurisprudence, individualism, idealism and nationalism, the various shades of proletarian thought, liberalism, pluralism, sociological jurisprudence, functionalism, fascism, and internationalism. Each theorist is ushered in with a brief introductory note and a selected list of references. The introductory notes are expository and biographical rather than interpretative, and are of slight value in orienting a philosophy to the historical setting. Dr. Spahr lets the philosopher speak for himself. She does not interpret or paraphrase, but by a careful selection of excerpts she has succeeded remarkably well in extracting the kernel from a large number of more or less extensive works. The book is admirably arranged for use as a text or reference work.—WALTER THOMPSON.

The democratic process is defined in Beni Prasad's *The Democratic Process* (London: Humphrey Milford, pp. 301) as "the movement towards conditions favorable to the whole of humanity for growth, expansion, and enrichment of personality." In other words, with respect to ends, democracy is a philosophy of individualism, albeit idealistically conceived. But instrumentally it is socialistic—this view stemming from Indian ethical universalism and cultured by Western social psychology with its specification of the functional priority of the social. Also it is evolutionary and optimistic. But it is never quite so optimistic and generally uncritical as when borrowed and mouthed by an alien. The book is crammed with documented facts, but often over-crammed beyond even a miser's wish. And the fault is twinned with the recitation of platitudes. The outstanding characteristic, however, is the unleavened style. But it is sound liberal doctrine.—L. M. PAPE.

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RECENT PUBLICATIONS OF POLITICAL INTEREST

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University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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Special committee on taxation and public debt. Report. Tallahassee, 1935. 188p.

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KANSAS

Legislative council. The social security program. Revised research report. Topeka, 1935. 2 parts. (Topics treated: the social security program; old-age pensions; federal old-age benefits; aids to dependent children; maternal and child welfare; aid to crippled children; vocational rehabilitation; aid to the blind; public health; unemployment compensation. There are some tabulations of existing laws on some of the subjects treated.)

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University of the Philippines. Neutralization and the Philippines, by Roberto Regala. Manila, Univ. of the Philippines Press, 1935. 30p.

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————Dispute between Ethiopia and Italy. Request by the Ethiopian government. Report of the Council under Article 15, par. 4, of the Covenant . . . Geneva 1935, 23 p. VII. Political. 1935. VII. 16.

————*Coördination committee.* Committee of eighteen; proposals and resolutions adopted during the second session (Oct. 31–Nov. 6, 1935). Geneva, 1935. 4 p. General. 1935. 8.

————Decisions and resolutions of the second session. Geneva, 1935. 12 p. General. 1935. 7.

————*Council committee on technical coöperation between the League of Nations and China.* Report of the secretary of the council committee on his mission in China, January–May 1935. Geneva, 1935. 50p. General. 1935. 5.

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